MARGINS OF THE STATE:
THE PRIVATISED SECTOR IN HONG KONG

by

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ABSTRACT

This thesis intends to be a comphrehensive study of privatisation undertaken in Hong Kong. It proposes that the relative success of privatisation appears to be closely associated with the maturity of the private sector in financial strength and administrative competence and a strong middle class.

The thesis first traces its historical development. It contends that Hong Kong is one of the earliest cases of the successful introduction of privatisation in the world, given the traditional laissez faire and non-interventionist approach of the Government. The fiscal constraint they imposed had entrenched a set of conservative budgetary policies which encouraged the private provision of public services and goods in Hong Kong since its founding in 1841.

In this thesis, privatisation is interpreted as the shifting of public functions and activities, wholly or in part, to private endeavours at the levels of provision, production, ownership, management, responsibility, and allocation of resources. Accordingly , six methods or institutional arrangements of privatisation can be identified in the case of Hong Kong, namely, corporatisation, subsidies, voucher arrangements, contracting, franchises and joint-stock companies, each of which has its own domain of service choice.

The thesis then gives a critical and detailed analysis from the vantage point of public administration. Three modes of organisation designs for privatisation are discerned, namely, public corporations, subvented organisations, and private companies. Each of them has its own set of power and authority legally prescribed in its relation with the Government and operation.

In terms of control and monitoring, which is essential for the privatised services, considering the public interest they are involved, this thesis suggests that given the political setting of Hong Kong in which "administrative absolutism" prevails, the emphasis has been put on administrative control with the absence or negligence of legislative and public control, a marked departure from the Western democracies.

In terms of the management system and performance, the privatised services accentuate the use of market forces in the allocation of resources which on the whole, has achieved a higher level of efficiency and cost-effectiveness.

To further theorise privatisation from the experience of Hong Kong, our study has also tried to show that the privatised sector, for whatever the mode of organisation it encompasses, is quasi-public and quasi-private in nature with a mix of private business and governmental elements. In the words of Ira Sharkansky, the privatised sector exists on the "margins of the state". As such privatisation purports the withdrawal of the frontiers of the state which would tend to become a "control agency". This trend has been increasingly observed in Hong Kong.

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER I

INTRODUCTION

The Background

Beginning in the early 1980s, a new concept, privatisation,[1] has been received with much popularity by both theoreticians and practitioners in the field of public administration. A "privatisation movement", as some scholars put it, has come of age.[2] As a widespread phenomenon, privatisation has become a centerpiece of national policy in some countries -- notably Britain where Prime Minister Margaret Thatcher boldly privatised most of the nationalised industries; and in the United States, privatisation had made a conspicious appearance on the policy agenda of the Regean Administration (1980-1988).[3]

The spurt of interest in privatisation in that period in the Western economies has stemmed from a combination of factors in common to them. The immediate cause was the world economic recession precipitated over the mid- and late-1970s, which imposed severe fiscal constraint on governments to finance the execution and expansion of public programmes.[4] Economists of the Monetarist school laid blame for the "stagflation" of the period on the size of the public sector. The key policy, to come up as a solution, is the reduction in the size of the public sector in order to make room for private sector investment, that is, the "recapitalisation of capitalism". This ideological predisposition, known as "New Conservatism",[5] is primarily a revival of the classical economic thinking of Adam Smith and a reaction to the Keynesian "welfare state" which advocate government intervention in the provision of goods and services and the increase of public expenditure to push up demand.[6]

Growth of Privatisation in Hong Kong

But Hong Kong has never been a welfare state, as remarked by an editorial of Welfare Digest, an official magazine of the Hong Kong Council of Social Services (HKCSS); its welfare standards are in no way comparable to the Western economies which have realized the ideal of meeting the needs of a person "from cradle to grave".[7] Privatisation indeed has traversed quite a different trajectory in Hong Kong from the Western counterparts.

By historical factor and practical considerations, as noted by Alvin Rabushka, the Hong Kong Government, to date, has quite consistently adhered to the nineteenth-century values of economic liberalism of the Smithian tradition in managing the economic and public affairs of Hong Kong.[8] According to his study, the acquisition of the colony was to serve as a diplomatic, commercial and military post, rather than a colonial settlement in the normal sense.[9] At the outset, the home government demanded that the Colony should be self-supporting financially, which coupled with its free port status to facilitate trading with China and other neighbouring countries, had entrenched a set of free-market or laissez faire economic policies and conservative fiscal policies persisting until the present day.[10] These include: 1. The practice and policy of balanced budgets and low taxation; 2. The maintenance of fiscal reserves, which have historically ranged from one-half to one year's expenditure; 3. The almost complete avoidance of public debt; 4. Habitual underspending by Government departments; 5. A widespread economy ethic throughout Government; 6. A general aversion to central planning; 7. The commercial provision of public economic services; and 8. Minimum intervention in, or regulation of, the private sector.[11]

During the pre-war period, when Hong Kong was still relatively underdeveloped and minimally industrialised with not much revenue, the Government under these policies had relied heavily on the private sector in providing the necessary public services. Thus utilities like electricity, buses, ferries and tramways, were initiated by private companies (see Chapter IV). And most welfare services including education were sponsored by private charitable and church bodies (see Chapter III). Incidentally, as pointed out by Lau Siu-kai and Kuan Hsin-chi, despite the laissez faire stand of the Government, it has not hampered the post-war industrialisation of Hong Kong for "the timely inflow of capital and labour from China [especially Shanghai] on the eve of export-oriented industrialisation in Hong Kong freed the state from the role in capital formation, entrepreneurship or labour supply".[12] On the other hand, the externally dependent economy emerged after the War, in the words of Rabushka, in which the consequences of an incorrect decision by Government would quickly come home to roost, and the fact of almost complete resourcelessness mean that there is little the Government can do by intervention to alter the internal cost/price structure of Hong Kong goods to the benefit of Hong Kong.[13]

These practical considerations thus encouraged a succession of Financial Secretaries in the post-war age to speak "in the language of an eighteenth-century Adam Smith and a nineteenth-century William E. Gladstone",[14] whose thinking and style could bear a deep imprint on the economic policy and administration of the territory.[15] John Cowperthwaite, the Financial Secretary from 1961 to 1971, expressing the heart of the Government's economic policy, has this say:

> "One trouble is that when Government gets into a business it tends to make it uneconomic for anyone else."[16] "For I believe that, in the long run, the aggregate of the decisions of individual businessmen, exercising individual judgement in a free economy, even if often mistaken, is likely to do less harm than the centralised decisions of a Government.....It has to be recognised, and it is recognised over a large part of our daily life, that the community's scarce resources can be efficiently allocated only by the price mechanism."[17]

Echoing that attitude, so even the Government determined that it had to provide a service to achieve certain social and economic objectives for one reason or another, it would try to conduct its affairs with minimum cost to the general taxpayers. In the mid-1960s, when withdrawal of overseas financial support had made it the responsibility of Government to provide social welfare services, instead of direct provisions, it sought for the cooperation with the private non-profit sector through subventions which can effectively perform needed services at less cost than Government (see Chapter III). Philip Haddon-Cave, Cowperthwaite's successor, followed similarly the doctrine of laissez faire, although he tried to construe it in terms of "positive non-interventionism":[18]

> "[T]he Government's involvement in the

community's affairs has steadily become prominent over the years, and while I do not anticipate a greater degree of interference with the economy, I am sure the degree of involvement must continue to increase. There is need in a more complex society to take care to ensure that private and public sector activities are in basic accord and there is much that the Government can, and indeed must, do if it is to help ensure that a high growth rate is maintained. This does not involve planning, macro-economic management and laying down what private enterprise should do; rather, it means that the Government must accept such responsibilities as are necessary to ensure that management decisions are not frustrated either by unnecessary constraints or by the absence of facilities and services which only Government can provide or by imperfections in the operation of the market mechanism leading to economic inefficiency or social distress which only the Government can remove."[19]

To be specific, Haddon-Cave goes on:

> "This intervention takes the form of the provision of the classical services of law, order and regulation, a few publicly-owned public utility undertakings (but operated on a quasi-commercial basis), a massive public housing programme, a fairly well-defined range of infrastructural investments, a few publicly-financed promotional bodies and, finally publicly-financed and managed social service."[20]

Haddon-Cave had during his terms of office pioneered, among others, the construction of the Mass Transit Railway and the incorporation of the MTRC, a privatised structure operated strictly on commercial lines in 1975 (see Chapter II). He was replaced by John Bremridge in 1982 who upheld the same stance as his predecessors:

> "Hong Kong has prospered under a system of low taxation with services paid for by those who use them. There seems to me much evidence in the world that increase of public expenditure

> reflecting relatively kind-hearted transfer of cost from the user to the taxpayer at large is both inflationary and counter-productive."[21]

In his opinion, privatisation means:

> "[T]he Government should not be involved in activities that can arguably be done better in the private sector. Recent examples of this approach can be seen in the Tuen Mun Light Rail System, the Eastern Harbour Crossing and Hong Kong Nuclear Investment Company. The same arguments apply to existing services. Thus our approach to car parks. Nevertheless the perceived advantages of privatisation have to be balanced against the morale of the civil service and the considering costs of disestablishment. Pragmatic, rather than a theoretical judgement is therefore essential-- one fruitful avenue, given our very successful value for money studies plus the need to constrain the growth of the civil service, will be the contracting out of services."[22]

The other aspect of the laissez faire approach to economic affairs, besides a non-interventionist stance, is the conservative fiscal policies. Given the low taxation and the narrow tax base to facilitate free trade, the Government has habitually "spent only what it can afford".[23] Central to its economic and financial policies is that public expenditure should not be allowed to grow faster than the underlying growth of the economy.[24] As a result, the Government has managed to contain the relative size of the public sector to less than 20 per cent of the GDP (Table 1.1). In 1980 this stands at 14.9 per cent, comparing with 34 per cent for the United States, 45 per cent for West Germany, 47 per cent for Britain and 38.3 per cent for

Table 1.1

The Size of the Public Sector (current prices)

Fiscal Year	Consolidated Account Expenditure (HK$ million)	GDP (HK$ million per calendar year)	Relative Size of the Public Sector (%)
1949–50	204 (a)	2,805 (b)	7.2
1950–1	218	3,356	6.5
1951–2	255	3,434	7.4
1952–3	296	3,174	9.3
1953–4	322	3,330	9.7
1954–5	375	3,574	10.5
1955–6	405	3,927	10.3
1956–7	496	4,322	11.5
1957–8	560	4,639	12.1
1958–9	612	4,919	12.4
1959–60	753	5,496	13.7
1960–1	898	6,280	14.3
1961–2	1,028	7,153	14.4
1962–3	1,186	8,322	14.3
1963–4	1,381	9,993	13.8
1964–5	1,529	11,383	13.4
1965–6	1,834	13,372	13.7
1966–7	1,867	13,640	13.7
1967–8	1,849	14,724	12.6
1968–9	1,934	15,658	11.7
1969–70	2,105	18,379	11.5
1970–1	2,503 (c)	21,879	11.4
1971–2	2,952	25,178	11.7
1972–3	3,875	30,382	12.8
1973–4	5,061	39,101	12.9
1974–5	6,692	44,578	15.0
1975–6	6,576	46,464	14.2
1976–7	7,355	59,339	12.4
1977–8	9,168	68,905	13.3
1978–9	12,122	81,163	14.9
1979–80	15,619	107,047	14.6
1980–1	22,056	137,209	16.1
1981–2	29,383	165,346	17.8
1982–3	35,684	186,868	19.1
1983–4	38,596	207,948	18.6
1984–5	40,944	248,984	16.4
1985–6 (d)	45,647	285,550	16.0

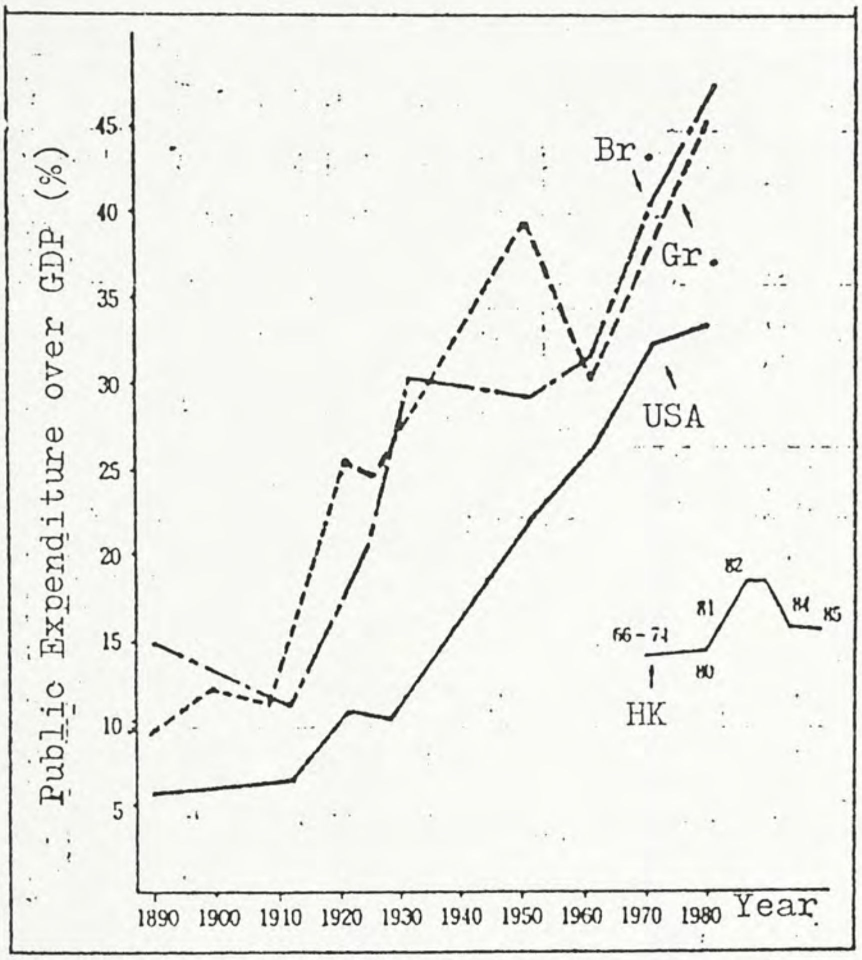
Sources: (a) The Consolidated Account expenditure data for 1949–50 to 1969–70 are taken from H.C.Y. Ho, *The Fiscal System of Hong Kong* (London, Croom Helm, 1979), p. 24.

(b) The GDP data for 1961 to 1986 are estimates by the Census and Statistics Department. Those for 1949 to 1960 are estimates by K.R. Chou adjusted according to the 1961 estimate by the Census and Statistics Department.

(c) The Consolidated Account expenditure data for 1970–1 to 1985–6 are taken from *The 1985–86 Budget Speech* (Hong Kong Government).

(d) Forecast taken from same source as (c).

Table 1.2 Percentage of Public Expenditure over GDP, Hong Kong and Other countries.



Source: R.A. Musgrave and P.B. Musgrave, Public Finance in Theory and Practice, Mcgraw-Hill, 1984, p. 138.

Singapore (Table 1.2). Moreover most years have registered budget surplus. In the 32 years from 1949-1981, deficits only appeared three times (in 1959-60, 1965-66 and 1974-75, see Table 1.3). So to speak there are great fiscal contraints on the capacity of the Government to deliver more services to the people. Although public expenditure on social services

Table 1.3

General Revenue Account and Fiscal Reserves (HK$ million)

Fiscal Year	Revenue	Expenditure	Surplus (+) Deficit (−)	Fiscal Reserves at Start of Fiscal Year	Ratio of Fiscal Reserves to Expenditure (%)
1949–5 (a)	264	182	+ 82	72	40
1950–1	292	252	+ 40	154	61
1951–2	309	276	+ 33	193	70
1952–3	385	312	+ 73	222	71
1953–4	397	355	+ 42	297	84
1954–5	435	373	+ 61	380	102
1955–6	455	403	+ 52	431	107
1956–7	510	470	+ 40	449	96
1957–8	584	533	+ 52	496	93
1958–9	629	590	+ 39	539	91
1959–60	665	710	− 45	599	84
1960–1	859	845	+ 14	545	64
1961–2	1,030	953	+ 77	n.a.	n.a.
1962–3	1,253	1,113	+ 140	631	57
1963–4	1,394	1,295	+ 99	797	62
1964–5	1,518	1,441	+ 78	900	62
1965–6	1,632	1,769	− 137	961	54
1966–7	1,818	1,806	+ 12	826	46
1967–8	1,900	1,766	+ 134	848	48
1968–9	2,081	1,873	+ 208	926	49
1969–70	2,481	2,032	+ 449	1,087	54
1970–1 (b)	3,071	2,452	+ 619	1,426	58
1971–2	3,541	2,901	+ 640	2,066	71
1972–3	4,769	3,550	+ 1,219	2,916	82
1973–4	5,017	4,644	+ 373	3,089	67
1974–5	5,593	5,973	− 380	2,809	47
1975–6	6,255	6,023	+ 232	2,552	42
1976–7	7,494	6,577	+ 917	2,810	43
1977–8	9,383	8,158	+ 1,225	3,713	46
1978–9	12,442	10,956	+ 1,486	4,949	45
1979–80	16,796	13,821	+ 2,975	6,416	45
1980–1	30,187	19,675	+ 10,512	9,339	47
1981–2	33,494	26,795	+ 6,699	15,300	57
1982–3	31,016	34,574	− 3,558	23,128	67
1983–4	30,400	33,354	− 2,954	18,695	56
1984–5	34,918	36,381	− 1,463	15,750	43
1985–6 (c)	37,153	38,308	− 1,155	15,300	40

Sources: (a) Figures for 1949–50 to 1969–70 are taken from the *Annual Report* (Hong Kong Government), various issues.
(b) Figures for 1970–1 are taken from *The 1985–86 Budget Speech* (Hong Kong Government).
(c) Forecasts taken from the same source as (b).

(education, medicine and health, housing, social welfare and labour) has since the 1970s accounted for 40-50 per cent of the total (Table 1.4) and had a growth of 104 times in real terms in the past 35 years from 1949-50 -- 1984-85,[25] this however represents 8-10 per cent of the GDP, a rate much lower than other industrial economies. Thus expenditure on medical and health services in Hong Kong only accounts for 1.8 per cent of the GDP, comparing with 8-10 per cent for countries in Western Europe (Table 1.5).

Such being the case, for the sake of cost-saving and reduction, apart from the provision of infrastructural facilities, the Government has tended to eschew the direct involvement in the delivery of public and social services which were either handed over completely to the private sector like most of the public utilities or delegated the management and production functions to private bodies. In 1982 the Kowloon-Canton Railway Department, a Government agency registering losses for many years, was converted, the first of its attempt, into a corporation separated from the public sector. Within two years, profit was turned out (see Chapter II). The success of the privatised railway won wide acclaim from the Government and the Legislative Council, which urged for the switch of more public functions especially those failing ones, to private

Table 1.4

Consolidated Account Expenditure, 1976–7 to 1984–5

	1976–7		1980–1		1984–5	
	HK$ million	%	HK$ million	%	HK$ million	%
Recurrent account	5,786	78.7	13,404	60.8	29,252	71.4
Capital account	1,569	21.3	8,652	39.2	11,692	28.6
General services	972	13.2	2,424	11.0	5,993	14.6
Security services						
Defence	241	3.3	1,590	7.2	1,511	3.7
Immigration	38	0.5	144	0.5	299	0.7
Law and order	717	9.7	1,627	7.4	3,368	8.3
Sub-total	996	13.5	3,331	15.1	5,178	12.7
Economic services	439	6.0	1,007	4.5	1,410	3.4
Community services						
Transport, land and civil engineering	765	10.4	3,115	14.1	4,771	11.7
Water	466	6.3	697	3.2	1,298	3.2
Other	658	9.0	1,762	8.0	3,862	9.4
Sub-total	1,889	25.7	5,574	25.3	9.931	24.3
Social services						
Education	1,405	19.1	3,382	15.3	7,050	17.2
Medical	647	8.8	1,664	7.6	3,335	8.1
Housing	618	8.4	3,708	16.8	5,645	13.8
Social welfare	365	5.0	881	4.0	2,276	5.6
Labour	24	0.3	86	0.4	126	0.3
Sub-total	3,059	41.6	9,721	44.1	18,432	45.0
Total	7,355		22,057		40,994	

Source: The 1985–86 Budget Speech (Hong Kong Government).

Table 1.5 Public Expenditure on Health over GDP (%).

Country/Region	Percentage ('82 figure)	
Luxemburg	10.5	
Holland	8.5	
Ireland	8.4	
West Germany	8.0	
France	8.0	
Denmark	6.7	
Italy	6.5	
Belgium	6.0	
Britain	5.7	
Japan	5.7	
Hong Kong	1.8	('84 figure)

Sources: (a) Trend in Public Expenditure on Health, OECD, Paris, 1982.

(b) Hong Kong Yearbook, 1985.

provisions.[26] The unexpected collapse of land revenue in 1982 resulting in four consecutive years (1982-86, see Table 1.3 above) of budget deficits further fuelled the momentum of privatisation. In 1983 Government car parks were contracted out to a private operator to be followed by the Kennedy Town abattoir, both of which have incurred losses and posed a drain to public funds in the past (see Chapter III).

Until lately, in the Report entitled "Public Sector Reform" submitted by the Finance Branch for Government's deliberation in February this year (1989), due emphasis, among the numerous recommendations on raising the value for money, has been laid on diverting some of the service departments to the private sector in order to cut back on Government spending and cope with the forcast coming of a world economic slump in the early 1990s and recession induced by the 1997 factor.[27] The extra considerations, on non-economic ground and the truth of which cannot be wholly precluded, are the perceived depolitisation of public administaration to reduce the political pressure the Government faces in the transitional period and curtailment of the administrative power of the future SAR government.[28] At any rate, regarding the historical development of privatisation in Hong Kong, it can be aptly summed up that the substance of privatisation has been existing in Hong Kong for very long only the name is derived in the 1980s.

The Nature of Public Goods and Services

Privatisation in fact highlights not only a programme of administration, but also a different perception of the state, national development and a different set of ideology. In the first place it is a belief that "business is better".[29] The private sector, it is argued, will perform functions more efficiently and economically than the public sector. The intellectual root of privatisation, as noted by Ronald C. Moe, is found in political economy.[30] The Public Choice school, in studying the nature of public goods and services, expresses its espousal of privatisation.[31]

Barry Bozeman has suggested all organisations are public. He contends that the public and private sectors are alike in the essentials, different only in the non-essentials.[32] However, it is widely agreed that the distinction between them is one of degree which can be portrayed in a public-private continuum.[33] Vincent and Elinor Ostrom have derived two central properties to distinguish the public and private goods and services in their ideal forms, excludability and joint consumption.[34] Excludability refers to the level of control that both buyer and seller have over a particular commodity; i.e., how easy it is to exclude users or owners from using or owning a particular good or service. For instance, a lighthouse has a very low level of excludability. All ships passing it can benefit from its service. But a meal in a restaurant has a high level of exclusive control by the buyer in the marketplace. Joint consumption refers to the idea that some goods and services may be used or consumed jointly and simultaneously by many customers without being diminished in quality and quantity, while other goods are available only for individual (rather than joint) consumption. A fish is an example for a good subject to individual consumption and conversely, telephone service is one exhibiting the charateristics of joint consumption.[35] By constructing a matrix from these conceptual pairs, we get a four-part combinations (see Fig. 1) which E.S. Savas classify them as follows:[36]

Fig. 1 Typology of Goods & Services.

	Joint Consumption	Individual Consumption
Non-excludability	I	III
Excludability	II	IV

Case I: <u>Collective goods and services</u> (public safety, pollution control, consumer protection, trade & industrial promotion, weather forecasts) are jointly consumed goods and services for which exclusion is not feasible.

Case II: <u>Toll goods and services</u> (telephone & cable services, transport & carpark facilities, education, medical & welfare services, electricity & gas, libraries) are jointly consumed goods and services for which exclusion is feasible.

Case III: Common-pool goods and services (fish in the ocean, air to breathe, water in a public well) are individually consumed goods and services for which exclusion is not feasible.

Case IV: Private goods and services (a haircut, a meal in a restaurant, a bag of groceries) are individually consumed goods and services for which exclusion is feasible.[37]

Cases I-III in fact denote some variants of public and semi-public goods and services in the public-private continuum which are the arena privatisation takes place. Their provision and production are customarily the responsibility of the public agencies or government. Market is composed of individuals and firms seeking to maximise their own self-interest. It determines the supply of private goods whilst the allocation and distribution of public goods are dictated by politics which describes the struggle between groups seeking favourable public policy, the demands for such policy being framed in the public interest. Moreover the interaction pattern of market is governed by competition whereas that of the public sector is hierarchical.[38] Aaron Wildavsky has aptly stated:

> "Government-produced goods (public goods) are not traded on the market; provision is determined by politics. A decision is made that we need some good or service the market is failing to supply, or supplying in less than an optimal quantity, and the government invokes the power to transfer resources necessary to produce it. Thus there is no market allocating mechanism to assist us in arriving at an efficient level of production, nor to bestow an objective (collective value on the goods. And although we frequently can price what we put into public goods, this price is obviously not the same as the value of the benefits bestowed; inputs are not necessarily outcomes."[39]

Anthony Downs similarly has this to say:

> "Because bureaus do not have economic output markets, they cannot evaluate the costs of producing their output or its value on this external basis. The bureau's income is not directly related to the services it provides. As a reault, the bureau's ability to obtain income in a market cannot serve as an objective guide to the desirability of extending, maintaining or contracting the level of expenditures it undertakes. Nor can it aid the bureau in determining how to use the resources it controls, or in appraising the performance of individual bureaucrats. In short, the major yardsticks for decision making used by private firms are completely unavailable to those who run bureaus."[40]

In a hierarchical pattern of interaction, the way of goods and services delivery by the state is mandatory. Individual preferences for diverse services are overruled; the public budget and taxation necessary to fund the state's activities are prescribed; more essentially, individuals no longer have the choice as to whether they wish to consume or pay for the good, so that producers' interests predominate at the expense of consumers' liberties. As a remedy, privatisation is seen as a means to foster and maximise individual preferences.[41]

Typical public goods, as mentioned, by their nature are used simultaneously by many people and on one can be excluded from enjoying them. An individual has an economic incentive to make full use of such goods without paying for them and without contributing a fair share of the efforts required to supply them. Mancur Olson calls this a "free rider" phenomenon.[42]

Efficiency as an Evaluative Criterion

It is commonly held that the public sector is less productive relative to the private sector because of inferior efficiency. Red tape, overlapping command, lack of initiative and responsiveness and still others have accounted for the administrative inefficiency of the public agencies. According to Public Choice theorists, bureaucratic behaviour is driven primarily by budget-maximising considerations. As J.T. Bennett and M.H. Johnson argue, "Every bureaucrat is inherently an empire builder who seeks to enlarge the size and scope of his agency in order to increase status and salary."[43] Economic efficiency is the "least cost" notion of efficiency. It is achieved "when the value of what is produced by any set of resources exceeds as much as possible the value of resources."[44] The incentives for economic efficiency are largely, if not totally, absent in the public sector. On the contrary, the reasons for increased efficiency in the provision of goods and services by private agencies are generally epitomized by the following terms:[45]

1. Competition among firms leads to efficiency in the production of goods and services;
2. Service boundaries can be defined on the basis of economic considerations (e.g. economies of scale) rather than political decisions;
3. Elasticity in demand (as a function of price) leads to the most efficient provision of goods and services ; and
4. Managers of private sector firms have incentives for efficiencies not present in the public sector.

None the less it has to be noted that in public activities, efficiency often is not the single and in some circumstances, the most appropriate evaluative criterion. For one thing, public goods involve strong externalities or spill-over effects, and high social cost should negative externalities occur. The outcome or effectiveness of the public policy is gauged by its ability in meeting social needs, such as equity in the allocation of welfare services.[46] Private provisions of public goods and services might result in trade-offs between efficiency and effectiveness, and between cost and quality. The Pareto Optimality therefore envisions efficiency as a state of affairs in which a change in economic organisation will make everyone better off without making anyone worst off, that is to say, improving the economic condition of one person without harming the economic condition of another.[47] In the public sector, efficiency, more often than not, should not be taken indiscriminately by its face value.

Definitional Issues

The word "privatisation" itself is an umbrella term with different ramifications of meanings. Narrowly defined, the Thatcher Government of Britain uses it to refer to the transfer of state ownership in nationalised industries to the private sector.[48] By imposing further restriction on the meaning, Peter J. Curwen, using the term interchangeably with "de-nationalisation", takes it as the transfer of at least 50 per cent of the shares in a nationalised industry from public to private hands.[49] Many others however will not treat privatisation simply as a matter of the transfer of public assets. Alan Walker, in behavioural terms, suggests that privatisation may be said to take place when responsibility for a service or a particular aspect of service delivery passes, wholly or in part, to the private sector and when market criteria, such as profit or ability to pay, are used to ration or distribute benefits and services.[50] Some authors have tried to appraise privatisation by analyzing the different facets of goods and services. Savas found that a service is consisted of two components: the service producer and service arranger. The service producer is the agent that actually and directly performs the work or delivers the service to the consumer; the service arranger is the agent who assigns the producer to the consumer or selects the producer who will serve the consumer.[51] Somewhat build upon Savas's, Ted Kolderie differentiates goods and services into the production and provision dimensions.[52] In the same vein, so are the two other aspects, management and ownership, which can be two separate elements in a good or service. Privatisation henceforth may be graphically intrepeted as below:

Fig. 2 Meaning of Privatisation.

1. Provision	Public	Private
2. Production	"	"
3. Ownership	"	"
4. Management	"	"
5. Responsibility	"	"
6. Allocation of resources	Politics	Market

$\longrightarrow$
Privatisation

Privatisation is envisaged at the levels of provision, production, ownership, management, responsibility and resource allocation, whenever any or all of those shift to the private sector, the right column in Fig. 2. In a comprehensive sense, privatisation therefore describes a multitude of government initiatives designed to increase the role of the private sector by turning over or shifting the above functions, wholly or in part, to it in the delivery of public goods and services.

Margins of the State -- The Privatised Sector

Implicit in the privatisation initiatives is the "rolling back" of the frontiers of the state. As Ira Sharkansky succinctly puts it, "Modern states are both growing and withering. They grow in response to incessant demands for more services; they wither as officials assign important activities to bodies they enjoy formal grants of autonomy from the state."[53] The privatised concerns discharge functions outside the borders of the state. They are set apart from purely public and private roles but entail both features pertaining to the public and private sectors. In other words, the privatised sector is quasi-public and quasi-private in nature; their entities exist in a grey area on the "margins of the state", to use Sharkansky's terminology, which are vastly different from the "core departments" of government.[54] Put generally, with some exceptions in each case, they are not represented on a government's organisation chart and directly responsible to the head of the state and the executive branch; their employees are not members of the civil service; and their expenditures do not appear in the government's budget either. Taking Hong Kong as a case, this thesis will be devoted to a study of that special sector operated on the margins of the state, with particular focus on the various strategies and methods of privatisation furnishing alternative ways of provision of public goods and services.

The Alternatives

In line with foreign experience, different institutional arrangements, as alternatives to direct government provision and production, can be discerned in the quest for privatisation in Hong Kong. We identified six methods or strategies through which privatisation is proceeded by the Government as presented by the following table:

Table 1.6 Methods/Strategies of Privatisation in Hong Kong.

1. <u>Corporatisation</u>
   Public Corporations:
   - Mass Transit Railway Corporation (MTRC)
   - Kowloon-Canton Railway Corporation (KCRC)
   - Hong kong Housing Authority
   - *Hospital Authority
   - Hong Kong Productivity Council
   - Hong Kong Export Credit Insurance Corporation
   - Land Development Corporation (LDC)
   - Hong Kong Industrial Estates Corporation
   - Vocational Training Council
   - Hong Kong Trade Development Council
   - Hong Kong Tourist Association
   - Concumer Council
   - *Water Authority
   - *Port Authority
   - *Airport Authority
   - *Postal Authority

2. <u>Subsidies</u>
   Voluntary, non-profit organisations:
   - Tung Wah Group of Hospitals
   - Po Leung Kuk, etc.

   The Bought Place Scheme (BPS)

3. <u>Voucher Arrangements</u>

The School Medical Service Scheme
The Direct Subsidy Scheme (DSS)

4. <u>Contracting</u>
   Car park management
   Cleansing services
   Management of abattoirs
   *Tunnel management (Lion Rock Tunnel & Aberdeen Tunnel)
   *Life-savings for swimming pools & beaches
   *Chemical waste treatment plants
   *Kowloon Bay Refuse Transfer Station

5. <u>Franchises</u>
   Public Utilities:
   Kowloon Motor Bus Co. (KMB)
   China Motor Bus Co. (CMB)
   Lantao Island Motor Bus Co.
   Yaumati Ferry
   Star Ferry
   Cross-Harbour Tunnel
   Eastern Harbour Crossing
   Tate's Cairn Tunnel
   Hong Kong Telephone
   Cable & Wireless
   Hongkong Tramway
   Peak Tramway
   China Light
   Hongkong Electric
   *Refuse collections

6. <u>Joint-stock Companies</u>
   Cross-Harbour Tunnel
   Eastern Harbour Crossing
   Tate's Cairn Tunnel
   Hong Kong Telephone
   Cable & Wireless

* Proposals only.

In the Chapters which follow, we shall give a critical review to each of these alternatives, namely, corporatisation; subsidies, voucher arrangements and contracting; and franchises and joint-stock companies, in that order. Due regard, besides the explanation and evaluation of each category, will be put on the legal framework and the political setting in which the structures in the privatised sector, namely, public corporations, subvented organisations and private companies, operate. As noted by Harold F. Gortner, *et al.*, public organisations are "executors of laws" which "establish the policy, direction, or the goals of bureaus, thereby spelling out what is expected in the way of outputs or results."[55] By contrast, in private or business organisations, "it is assumed 'that the organisation will operate within the general parameters established by society', and that is all that matters. No further comment on the law is required".[56] In this respect, the quasi-public and quasi-private organisations existed in the privatised sector, in discharging functions and duties involving public interest, are close to public bureaus in the adherence to laws to regulate their activities. In the following discussions, we shall show, as far as possible, how the Government, through legislations and other legal arrangements, defines the proper organisation designs and the due managerial processes and procedures especially on financial matters pertaining to these organisations. Focus will be put on the control and accountability mechanism as spelled out in the subsequent relationships they entail with the Government. Gortner, *et al.*, has also differentiated the control systems for organisations into two layers:

the internal control which is oriented toward control within the organisation, and the control by the larger environment of external actors including public officials, legislative bodies, regulatory agencies and organised interest groups.[57] Our analysis will concentrate on the external layer of organisation control. In the conclusion, we shall try to summarise the patterns observed from these different institutional arrangements that constitute the privatised sector in Hong Kong, and their implications, both theoretical and practical.

As such, this thesis is an attempt, which is also its main theme, to derive a typology of the methods of privatisation undertaken by the Government in Hong Kong, and to give a detailed and critical account to each of the categories in terms of such topics of public administration as organisation structure and design, monitoring and control, power and authority, and management system and performance. And the major thrust of arguments in this and subsequent chapters which the auhtor intends to put forward is as follows:

(a) Privatisation has been a common phenomenon in Hong Kong since its founding in 1841, given the laissez faire and non-interventionist approach of the Government, which stands in sharp contrast with the

Western countries.

(b) Privatisation, as a process of shifting the provision of public goods and services to the private sector, can be interpreted at the levels of provision, production, ownership, management, responsibility and resource allocation.

(c) From that definition, six methods or institutional arrangements of privatisation can be identified in the case of Hong Kong, namely, corporatisation, subsidies, voucher arrangements, contracting, franchises and joint-stock companies; each of them has its own domain of service choice.

(d) In terms of the formal design, the mode of organisation through which the above-mentioned methods of privatisation take place include public corporations, subvented organisations and private companies, each of which has entailed a prescribed set of power and authority in its relation with the Government and its operation.

(e) In terms of monitoring and control, given the political setting of Hong Kong in which "administrative absolutism" prevails, the emphasis is put on administrative control with the absence or negligence of legislative and public control.

(f) In terms of the management system and performance, the privatised services are based in various degrees on market forces in the allocation of resources, stressing efficiency and cost-effectiveness which, on the whole, most of them have achieved.

(g) As can be shown by the Hong Kong case, the privatised sector is quasi-public and quasi-private in nature with a mix of private business and governmental elements which exists, in the words of Ira Sharkansky, on the "margins of the state".

(h) Privatisation implies the withdrawal of the frontiers of the state which has tended to become a "control agency". This trend can be increasingly witnessed in Hong Kong.

(i) Privatisation seems to be related to a more advanced level of socio-economic development which could provide a mature private sector in terms of administrative competence and financial strength and a strong middle class for its successful running.

CHAPTER II

CORPORATISATION

This chapter will examine corporatisation, one of the mehtods of privatisation employed particularly by the Government of Hong Kong. It will begin with an analysis of the origin and the legal and institutional attributes of public corporations -- the resultant structure of corporatisation, followed by a discussion of some of the examples -- can be divided into two types -- in terms of the formal design, control and accountability mechanism, and management system and performance, as aforementioned.

In the final section of the McKinsey Report, "Strengthening the Machinery of Government", of 1973, it has been suggested that the Government should hive-off parts of its functions and structure such as airport, railway, water supply and postal service, in order to improve their performance and reduce the load on the central administrative machinery.[1] According to the Report, "Government's role in the activity is then limited to setting overall standards and determining key factors such as prices; in all other respects the agencies are managed independently by their own Board and staff."[2] Colin Sankey, the Principal Assistant Financial Secretary who, for the time being, conducts a group in the Finance Branch to undertake a study on privatisation, coined this process "corporatisation" which in his account, is a category of privatisation through the transfer of assets to a separate entity, thus vesting day-to-day financial and operational decisions outside of Central Government and obvious examples being the MTRC and KCRC.[3] Both the Report and Sankey have virtually pointed to the creation of a not quite new species of organisation named the public corporation popularly found in Western countries in recent decades.[4]

Public corporation, as a peculiar form of organisation, was evolved over a long period of time in history.[5] On the other hand, the theory of public corporation only finds its earliest expression at the turn of the century.[6] Scholars like Marshall E. Dimock, W.F. Willoughby, A.C. Pigou, J.M. Keynes, Herbert Morrison and Harold Seidman, to name a few of them, have successively written on the subject to polish the concept.[7] The Crawford Committee on British broadcasting industry of 1926 had first used the term "public corporation", which proposed that "the [broadcasting] services should be conducted by a public corporation acting as a trustee for the national interest" with the object "to bring an important industry or service within public control without making it an ordinary government department."[8] There is as yet no general code of rule governing this form of organisation which is indeed quite unnecessary as the particular statute giving its creation may vary from one another in details for each industry and in different countries. None the less, the essence of the public corporation seems to reside in the following legal and institutional attributes:[9]

1. The public corporation is created by or under the authority of an Act of the legislature, consisting either of a special charter or of a general permissive statute.
2. The public corporation is an artificial being, and a juristic creation of law. Being the mere creature of law, it possesses only those properties which the enabling instrument confers upon it, either expressly or as incidental to its very existence. Among the most important are its specific powers, duties, immunities, form of management and its relationship to the government and with other established institutions.
3. Unlike a normal type of goverment agency the public corporation is a separate entity for legal purposes, and customarily can sue and be sued, can enter into contracts and acquire property in its own name.
4. The public corporation has neither public nor private share-holders. The whole nation is, in a

symbolic sense, the share-holder and is represented by its parliament and government.

5. To keep it free from political pressures and frequent government interferences, its administration is entrusted to a board of directors who are appointed according to the provisions made in its enabling act. The nature of boards may vary according to the nature of the enterprise entrusted to it. The board of directors is not expected to interfere in the detailed management of the corporation, which is the job of the general manager or the managing director.
6. The public corporation, by virtue of its commercial functions, should have freedom from treasury controls, except for any appropriations required for the provision of capital or the meeting of losses. Usually, public corporations are given the right to use subscribed capital, to raise new capital, to utilise operating revenues to defray operating expenses, to provide working capital and to build up reserves.
7. In matter of personnel, the corporation should have considerable freedom of action and should not be subject to the civil service rules. All appointments, terms and conditions of services should be strictly according to efficient business enterprise principles.

8. Public corporations are usually given the power to determine the character of and necessity for their expenditure, and the manner in which this is incurred, and paid. They are thus exempted from most of the regulatory and prohibitory statutes applicable to the expenditure of public funds. Their funds usually do not end with the fiscal year.
9. The accounting system of public corporations normally follow private commercial practice and are designed to reflect all costs properly attributable to their operations.
10. The accounts of public corporations are audited by some competent authority as prescribed in their governing statutes. The auditing is according to the principles and procedures applicable to commercial transactions.
11. All public corporations, although they are separate legal entities, are yet accountable to the public through the public's representatives in the government and parliament, according to rules laid down in their enabling instruments.

In Britain, public corporations, entitled by a wide variety of names like "Council", "Board", "Corporation", "Commission", etc, grew in large numbers since the post-war era of nationalisation which are the standard mode of organisation for the nationalised industries.[10] The Amercian public corporation, also known as the special authority or public authority, has largely flourished at the state and local levels of government. They employ 3 per cent of the national labour force and control four fifths of the local public transportation systems, three quarters of the country's water systems and a fourth of the electrical plants and railways.[11]

As Peter J. Curwen puts it, the nationalised industries are all public corporations, but not all public corporations are nationalised industries.[12] As a corporate device, the public corporation is like a double-edge sword which, depending on the mode of formation, could be the organisational structure for both nationalisation and privatisation. After all, being quasi-private and quasi-public in nature, that implies it is a middle-range structure which can either be a nationalised or a privatised institution.

In Hong Kong, the first public corporation to appear was the Hong Kong Tourist Association, thereafter, a few more have come into existence especially since the 1980s, in line with the hiving-off and corporatisation policy. In chronological order by date of incorporation or commencement, they are set out below:[13]

Table 2.1 Public Corporations in Hong Kong.

Name of Corporation	Date of Incorporation/ Commencement
**Hong Kong Tourist Association	21 June, 1957
**Hong Kong Trade Development Council (TDC)	30 Sept., 1966
*Hong Kong Export Credit Insurance Corporation	23 Dec., 1966
*Hong Kong Productivity Council	20 Jan., 1967
*Mass Transit Railway Corporation (MTRC)	26 Sept., 1975
*Hong Kong Industrial Estates Corporation	1 March, 1977
**Consumer Council	15 July, 1977
*Vocational Training Council	26 Feb., 1982
*Kowloon-Canton Railway Corporation (KCRC)	24 Dec., 1982
*Land Development Corporation (LDC)	15 Jan., 1988
*Hong Kong Housing Authority	1 April, 1988
*Hospital Authority	1 April, 1990

*Revenue-yielding corporations.
**Non-revenue-yielding corporations.

Broadly speaking, two types of public corporations can be discerned: One is the revenue-yielding varieties such as the MTRC, KCRC, LDC, Housing Authority and Hospital Authority, which are liable to a return in pecuniary terms by virtue of services and goods they provide, and may become financially self-sufficient, displaying various degrees of financial independence. The other is the non-revenue-yielding public corporations such as the Consumer Council, which render free services to the public and do not have any source of income of its own but rely wholly on Government appropriations to finance their activities. For this reason, their behaviour can be closely monitored by Government wihtout the danger of running out of control like their revenue-yielding counterparts. Moreover as can be seen from the following discussions, the latter have tended to adopt more or less a profit-oriented approach in management and operation, which will not be found in them.

Mass Transit Railway Corporation (MTRC)

The MTRC was created by Ordinance in September, 1975, which, giving its legal status, has specified that "the Corporation is not the servant or agent of the Crown and does not enjoy any status, immunity or privilege of the Crown" and "shall have perpetual succession and a common seal and be capable of suing and being sued.[14] The principal activities, conducting according to "prudent commercial principles", as of 1987, are:[15]

(a) the operation of a mass transit railway with lines from Central to Tsuen Wan, from Yau Ma Tei to Kwun Tong, and from Chai Wan to Sheung Wan;

(b) related commercial activities, including the letting of advertising space and marketing of commercial franchise on the system, property management and property development both for investment and for resale; and

(c) the planning and construction of extensions to the railway including, currently, involvement in the construction of the Eastern Harbour Crossing.

All shares are alloted to the Government, the sole share-holder, in the name of The Financial Secretary Incorporated which as at 31 March, 1988 has subscribed a total of $8.1 billion by instalments, with $2.5 billion unpaid shares outstanding, callable if needed and approved by Government.[16] The administrative apparatus of the Corporation is the Board of Directors, members of which including the Chairman and Managing Director, are all appointed by the Governor. In 1987 it consisted, of the nine members, Michael Leung Man-Kin, the Secretary for Transport, D.A.C. Nendick, the Secretary for Monetary Affairs, and G. Barnes, the Secretary for Lands and Works.[17] The Board is given wide-ranging powers including setting the fares, borrowing or raising money and creating and issuing bonds, notes or other securities under Government's guarantees if it sees fit. The Governor-in-Council may however, "if he considers the public interests so requires, gives directions in writing of a general character to the Corporation". The auditor is appointed by the Governor after consultation with the Corporation; and all books of account, within three months of the receipt by it of the auditor's report be furnished to the Financial Secretary who tables same in the Legislative Council.[18] As such, it is noteworthy that the design is to make the Corporation operated like a private commercial enterprise with the least interferences in all respects.

By 1987 the MTRC, with a staff force of 4,525, has captured 23 per cent of the territory-wide public transport market and on the key cross-harbour route, the railway was the dominant carrier with a share of 52 per cent. The average number of week-day passengers reached 1.8 million at the end of 1987.[19] In the eight years (1980-87) since the first full year of railway operation, its operating profit margins are kept in the region of 38-57 per cent. The Corporation takes pride to state that "it is the only underground mass transit railway in the world which earns unsubsidised fare revenue sufficient to cover all costs, including depreciation, plus a useful operating profit margin."[20]

The construction of the MTR, appreciably the largest public work project Hong Kong ever had, was extremely costly. The total debt incurred as at 31 December, 1987, still amounted to $18.2 billion.[21] To seek for an active financing programme and to refine the structure of its debt profile remain the most formidable task of the Corporation, mindful of that its ability to use commercial loans to supplement Government own equity and loan injections,[22] to use Sankey's words, is one of the main reason for its incorporation. To secure good credit ratings, financial presentations or "Road Shows", as it is called, are undertaken every now and then in major world's financial centres. The Corporation also fine-tunes its preferred debt profile annually by procuring new financial instruments.[23] Given the huge figure of borrowings, interest and finance charges, amounting to $1.4 billion in 1987 alone,[24] payable to the bonds and commercial papers issued and loans raised in the local and international capital markets, often exceed the operating profits, notwithstanding the fare hikes made each year. In 1986 and 1987, an extra profit of $482 million and $720 million respectively, has been derived from property development along its railway lines.[25] But this revenue will be cut off after 1989 when all the MTR real estate ventures have been completed and sold. Wilfrid Newton, Chairman and Managing Director of the MTR, has promised in 1985 that all indebtedness would be paid off by the end of the century.[26] It seems there is little likelihood for doing this in view of the above, unless the Government would commit to more injections of funds and fares be increased indefinitely which would however invite criticism from the public.

Kowloon-Canton Railway Corporation (KCRC)

The KCRC was formed in December, 1982 by hiving-off a Government agency, i.e., the Kowloon-Canton Railway Department, the first of its kind, to an independent body outside the civil service. The change of status was in large part engendered by the modernisation and electrification of the entire railway line completed in same year which calls for an administrative structure operating on commercial principles to cope with the expanded volume of passenger and freight traffic and to fulfil a better financing and management as the former Department had perennially suffered from straight losses for many years.[27]

Discharging similar activities as the MTR, the KCRC Ordinance 1982 has set out same provisions as to its administrative and financial relationship with Government and the powers and managerial freedoms it enjoys (see above). The KCRC is wholly owned by the Government whom upon the incorporation, had transferred to it current and fixed assets worth $2.5 billion, $1 billion being cash loan due to pay back, as initial capitals, and reimbursed previous employees of the Department a total of $70 million for compensations.[28]

The Corporation has seemed to sustain a good business track record in the past five years (1984-88) of operation. By 1988 the KCR carried about 470,000 passengers daily, more than ten times of that before "corporatisation".[29] Except for the first year which had experienced a loss of $65 million, profits after interest and depreciation charges were registered for the rest of the years.[30] In 1988 this amounts to $562 million -- half of it being incomes from property development, a one-fold increase in comparison with the previous year; and the Government loan had also been repaid.[31] In 1986 the KCRC shouldered the construction and development of the Light Rail Transit (LRT) linking Yuen Long and Tuen Mun in the northwest part of the New Territories. Credit also goes to productivity which has been rising every year and a source of pride to Peter Quick, the Managing Director, that despite the tremendous growth of business turnovers, the number of employees has sheerly increased from 2011 to 2845 over the period.[32] The Goverment also echoed the favourable comment on the KCRC as John Bremridge, the former Financial Secretary, puts it in 1986 at a session of the Legislative Council, "[I] do not believe that the KCR could have done so well under its former structure. Operating in a competitive environment, the railway must be run in accordance with commercial principles. As a statutory corporation, the KCRC has been able to respond quickly to market conditons and enjoys far greater flexibility than any Government department in making commercial decisions, in marketing its services and in planning and implementing its future development"[33] Given the sound financial background and high rate of returns, there are talks within and without the Government of a "complete" privatisation of the KCRC by listing it on the Hong Kong Stock Exchange,[34] notwithstanding the public concerns on its profiteering orientation and the lack of control.

The Issues of Control

For all the progress attained by the MTRC and KCRC since their operation, they alike face the problem of control, which is universal for that species of organisation -- public corporations, particularly those revenue-yielding ones. As Nicholas Henry remarks, "Public authorities, although chartered by governments, are rarely controlled by them."[35] Given the very nature of the political system of Hong Kong which is executive-centred, the Governor, at least in theory, as can be noted from the statutory provisions, is the supreme head of the two Corporations. He maintains the power of appointing all Board members (as opposed to the ministerial appointment in Britain) being held responsible to him and may obtain any information from the Corporation he so requests (Section 19, MTRC

Ordinance). At the same time, his power is somewhat curbed as it has been specified that he may give directions to the Corporation only for those of a "general character" and complying with the "public interest". And if the direction contravenes "prudent commercial principles", the Government must compensate the Corporation in full (S.20, MTRC Ordinance and S.6, KCRC Ordinance). This arrangement obviously is to foster independence of the Corporation from undue interferences. In fact same provisions are usually found in the British public corporations, because the rule of thumb is "there should be some ministerial control and some public accountability -- but not too much".[36]

As a practice, the Secretary for Transport and Secretary for Monetary Affairs will be appointed to the Board, though the law has not provided for that they are ex-officio members. They are intended to be the representatives of the Government who may be directly informed of all matters relating with the Corporation and exercise supervision. But by statute they are no more than a director who must comply with the managerial decisions of the Board. Such a confusion of roles has been a source of critics as shown in the "golden handshake" affair. In early 1989, two senior staff of the KCRC were, by a decision of the Board, granted an ex gratia payment totalling almost $4 million as leave compensations.[37] The information was leaked to the media and caused a furious public outcry. People questioned the ability of the two Government officials attending the Board in overseeing corporate behaviours out of an overlapping role. They were asked to pull out and replace their supervision by more effective measures of sanction.[38]

In comparision with Government control, the supervision from the legislature is even less sanguine, particularly in the Hong Kong context. As Henry again observes it, "Although the statute that establish public authorities can be and frequently are, very specific and detailed, once the authority is established, legislative control often becomes a mockery."[39] In Western democracies, the executive branch is held answerable to the legislature; a ministerial control may automatically mean a supervison on the part of the legislature which may enquire into and censure any matter concerning the executive authorities. In Hong Kong the Legislative Council has not been entrusted with any formal function except for the reading of books of account tabled before it by statute (S.16 (4), MTRC Ordinance and S.14 (5), KCRC Ordinance) in monitoring the two railway utilities. It goes without saying that the Legislative Councillors might well exert an informal influence by moving motions to put the matters of the Corporations to the forum for discussion, but they have no real power whatsoever to alter their decisions.[40]

On the other hand, the Corporations have seemed to be granted too much financial autonomy as in the most important provision on fee charging, they are empowered to "determine fares payable by persons travelling on the railway" (S.6(2), MTRC Ordinance and S.9(2), KCRC Ordinance). So the Board is actually free to decide the fare structure, needing only to inform the Executive Council as a courtesy beforehand. In contrast utilities operated by private companies under franchises (see Chapter IV) have to abide by the Scheme of Control and to obtain the approval from the Transport Advisory Committee in each fare adjustment. The abuse of that power lies at the heart of the public concerns in regard to the two utility Corporations. The levy of a surcharge by the MTRC in May 1988, not to make up the rising cost, but to discourage peak-hour travel at some of its busiest stations along the Nathan Road corridor, is testimony to the breadth of the problem.[41]

On financial matters, the Government is perhaps more concerned for a balanced account, i.e., "its revenue is at least sufficient to meet its expenditure" (S.13(1), MTRC Ordinance). There is thus much ground for complacency for the KCRC in particular, when both of the two Corporations have reaped satisfactory profits at a steady pace. Ironically this high yield of return will not enhance accountability according to public opinion. With the Government loan repaid and the surplus accumulated directed to its own reserve fund, the KCRC has now virtually become financially independent. Unlike the non-revenue-yielding public corporations (see below) which the Government could definitely play the upper hand through appropriations, there is a danger of running out of control in respect of the KCRC and MTRC, considering their least reliance on the public budget.[42] This worry, plus the defects given above, have allegedly prompted Government to ponder better ways of supervision. One measure proposed by Government is to re-define its relationship with the public corporation in a Memorandum of Agreement with the power of sanction signed between them.[43]

Another alternative is the inclusion of public control which is however quite out of the question to the Government but has been fervently sought for by a host of pressure groups and civic bodies.[44] The crux of their proposal is to increase the representativeness of the Board membership by inducing to it elective elements recruited from the District Boards, the Urban and Regional Councils, the Legislative Council and various sectors of the community.[45] Foreign experience as to the control of public corporations has so far been inconclusive. As Annmarie Hauk Walsh puts it, "The successes of public authorities have, in fact, motivated much of the criticism of them. Critics on the left seek a more purposeful, dynamic, and democratically controlled public sector. Those on the right seek to reduce the scope of government enterprise, or at least check its growth, and to limit its activities to those that aid private endeavours,.....public authorities have withstood such assults practically unscathed and continue to claim rights of independent management."[46]

Housing Authority

The Reorganisation & New Financial Arrangement

Public housing including the Home Ownership Scheme flats has accomodated 45 per cent of the total population in Hong Kong.[47] This was largely accomplished by a heavy commitment and active intervention on the part of Government in the provision of low cost housing. In 1987 Government's puplic housing programme has taken up one third of its annual expenditure on capital works.[48] The policy was changed with the recent reorganisation of the Housing Authority.

The Housing Authority was established in 1954, at first to provide limited quantities of estate housing under Government loan along with other Government department. To implement the ten-year housing programme initiated by Sir Murray Maclechose, it was reorganised in 1973, which became a policy-making body chaired by the Secretary for Housing in charge of the public rental housing (PRH) in collaboration with the Housing Department, its executive arm.[49] In 1988 the Authority was for the second time reorganised to facilitate a new policy on housing.

Central to the change was the dissolution of the Housing Branch with its duties hived-off to the Housing Authority which subsequently became the sole and independent body overseeing the policy formulation of all public housing affairs. The post of the Secretary for Housing was cancelled and the Chairman which was reserved to him, of the Authority was replaced by a non-Government person. Moreover the number of official members in the Authority was reduced from six to three.[50] Together with the reshuffle was the putting in place of a new financial arrangement of Government with the Authority. A total of $17 billion in form of current and fixed assets, $13.26 billion being the sum borrowed so far from the Development Loan Fund and $3.78 billion the balance left in the Home Ownership Fund, was transferred to the Housing Authority as its permanent capital.[51] The reorganisation therefore followed the model of corporatisation along the line of the KCRC, only that the Housing Department was still maintained a Government agency, serving as an executive arm for the Housing Authority as before. And the Director of Housing became its Chief Executive. The new financial arrangement also encompasses following details:[52]

(i) A total of $10 billion will be injected between 1989 and 1994 to facilitate the Authority's cash flow; making the total permanent capital contributed by Government to $27 billion;

(ii) An interest at a rate of 5 per cent per annum is levied on the capital contributed;

(iii) Income from commercial undertakings (estate's shopping malls and carparks, etc.) will be split between Government and the Authority; and

(iv) Surplus exceeding a maximum limit will be directed to the public coffer.

A decreasing role of Government in the housing provisions is evident in this new financial arrangement. The emphasis on return has signalled a change that public housing is no longer a product of altruism catered to social needs but a kind of investment subject to the supply and demand curve.[53] The Government has computed that by 2001, the interest and profits charged by it will amount to $31.6 billion, i.e., a return of $4.6 billion. To be sure, it has denied making such a profit as in addition, a free land grant totally worth $20 billion will have been contributed in the same period.[54] The reorganisation and new financial arrangement, as conceded by Government, was to cope with the implementation of the Long Term Housing Strategy announced in April, 1987. Commentators have pointed out that the new financial arrangement also serves the purpose of dampening the public pressure against rent rises and the demand for building more public housing, when surplus is envisaged in the Housing Authority by the middle of the 1990s as projected by the Long Term Housing Strategy.[55]

Long Term Housing Strategy

Among other things, the Long Term Housing Strategy, as a policy statement of Government, has manifested some of the tenets of privatisation. As it states, "In the 1950s, 60s and early 70s, the greatest need was for low rental housing and production was concentrated on public rental housing projects. Improved economic conditions in Hong Kong have brought with them expectations and there is a demand for improvements in living conditions, including a growing aspiration to own rather to rent."[56] It envisages a need for a change in direction in the housing policy based on a review of the housing demand and supply and the future population trend, which shows that by 1995 there is likey to be an over-provision of public rental housing, an under-provision of Home Ownership Scheme (HOS)/Private Sector Participation Scheme (PSPS) flats and a under-utilisation of the private sector's resources.[57] By accentuating "affordability" or the ability to pay, the policy statement suggests, "It is desirable to introduce measures that will attract more of the better-off tenants of the PRH to move to other accomodation which they can now afford."[58] The measures are: to encourage assisted home purchase by providing more HOS/PSPS flats and unassisted home purchase in the private sector by introducing a Home Purchase Loan Scheme (HPLS).[59] "By shifting the bases of public housing programme from rental to purchase",[60] the Long Term Housing Strategy has laid out a private-centred housing policy with due recognition of market criteria, signifying a retreat of public responsibility. As a Legislative Councillor comments it, "The responsibility for improving living conditions is now gradually being shouldered by those who stand to benefit, and indeed, by the private sector. So the limited resources of Government can be channelled into meeting the basic needs of the low income groups. This is...in line with the general principles of free enterprise in Hong Kong."[61] The sale of HOS/PSPS flats could make a quick recovery of cost and a considerable profit return, comparing with the PRH. That explains the forecast surplus in the Housing Authority by 1995 when HOS/PSPS flats will account for three quarters of the total supply of public housing per annum.[62]

In the PRH sector, in 1986, a new rental policy of that the rental rate should be equal to 15 per cent of the average family income of a household and "better-off" tenants charged twice the rent at the expiry of the initial ten years of residence, has been put into practice.[63] The policy also has seemed to justify rent rises by emphasising user charges, the ability to pay and cost-effectiveness, which in effect would turn the provision of low cost housing to the needy into a residual social service.[64] And this tendency for "commercialisation" and "commodification", the tenets cherished by advocates of privatisation, will be carried over to the new Housing Authority with added impetus. In other words, the new Housing Authority, taking the form of a public corporation, with financial and managerial independence, serves an excellent vehicle for the implementation of a privatised housing policy. This same organisational nexus applies to the proposed Hospital Authority.

Hospital Authority

In 1985 the Government had commissioned an Australian consultancy firm, W.D. Scott & Co., to study the delivery of medical services in hospitals in Hong Kong. The outcome was a Report published a year later which underlies the formation of the Hospital Authority scheduled in April, 1990 by Government in accordance with its recommendation. The Report has mapped out a new medical policy which is going to have far-reaching effects on the development of hospital care in Hong Kong. It stressed from the outset that the aim of its study was to derive a solution for medical problems in Hong Kong based on a maximisation of outputs against limited resources: "At a time when the cost of providing medical service is rising faster than most other public services, Hong Kong is faced with indications of reduced growth rates in overall Government revenue, yet has a growing community expectation for improved medical and hospital care.....In the longer term there are concerns about the level of future Government funding, the overall effectiveness of the use of resources, and the general management situation in the larger hospitals."[65] The critical need therefore is "to harness all available scarce resources and focus them on the provision and further development of medical services in hospitals."[66] The organisational framework that could preferably achieve these goals is an independent authority structure outside the civil service.[67]

Together with the suggested set-up of the new structure, which would mean a hiving-off of hospital activities from the Medical and Health Department and an ultimate change of status of its 25,000 civil service staff, the Report also drew up a detailed reform programme for the betterment of medical services in hospitals. Foremost among the suggestions are the integration of the subvented and Government hospitals (cf. above) and the introduction of an array of cost control measures, besides those on internal hospital structure, regional management, working environment and tackling overcrowding. Three aspects of cost control, the Report points out, require attention, namely, resource allocation, control of expenditure against a planned budget and maximising value for money spent.[68] The recommendations in respect of cost recovery and control embrace the followings:[69]

1. The basic charge for third class bed is tied to a fixed percentage of the average bed day costs, rather than to the cost of the food.
2. There will be a charge for attendence at Accident and Emergency Department equivalent to the cost of attending a specialist clinic, to prevent abuses of these services.
3. An admission charge is introduced, equal to a single bed day charge, as recognition of the additional costs incurred in the admission process.
4. A major facility usage charge is introduced for the use of such facilities, to recognise the increased cost of provision of this type of service.
5. To introduce more higher class accomodation, i.e., the second or "B" class beds, which on examining socio-economic data appear to have a demand between 2,000 to 4,000 beds.

It is no doubt that these measures of "marketisation", once implemented, would totally change the distributive justice inherent in socialised medicine by collective provisions. Like those of the housing sector, patients will become consumers, and the supply of a medical good or service will be determined by one's ability to pay, but not need.[70] To the social work practitioners, this is a breach of the concept of public health which is a kind of social wealth that the Government has a responsibility to maintain; and will jeopardise social equity by widening the gap between the poor and the better-off.[71] But to the Australian consultants, a privatised medical policy represents the rational tendency of a quasi-capitalist enterprise in resource allocation and cost reduction.

Thus far, it can be seen that in the revenue-yielding public corporations dewlt on above, they all exhibit a tendency toward adopting commerical principles or "marketisation" so-called in their management and operation. And the financial independence they would attain, albeit in various degrees, will render supervisions from the outside less effective. By sharp contrast, the non-revenue-yielding public corporations are operated on completely different principles, to which the following section will turn.

Non-Revenue-Yielding Public Corporations

The non-revenue-yielding public corporations are the Trade Development Council, Tourist Association and Consumer Council. The services they render, trade and tourist promotions and consumer protection, are those of the pure public or collective services (see Chapter

I), which are free of charge and used simultaneously by many people that no one can be excluded. Hence, far from being profit-making, just on the opposite, these corporations are to provide some necessary and essential services on behalf of the Government to society at large at its own cost. There is no question of financial independence in them as they all wholly rely on public funds for financing. To facilitate appropriations by the Finance Committee of the Legislative Council, it has been specified in their respective Ordinance that each year, before a date to be appointed by the Financial Secretary, they must forward to him, for the approval of the Governor, a programme of its proposed activities for the next financial year incorporating estimates of its income and expenditure for the same year. In addition, within six months after the end of each financial year, they are required to produce to the Governor a report on their activities attached therewith their books of account which are then laid on the table of the Legislative Council. These provisions which can guarantee to the Government a full control,[72] are usually not present in their revenue-yielding counterparts. In 1988 an amount of $200 million was appropriated to the Trade Development Council, $20 million to the Tourist Association, and $10 million to the Consumer Council.[73] At any rate, as privatised structures, these corporations have made a tremendous contribution in boosting Hong Kong's international trade and tourism and enhancing consumer protection with an innovative spirit that can hardly be surpassed by an ordinary government agency.

Summary

Two types of public corporations can be discerned in Hong Kong, namely, the revenue-yielding and non-revenue-yielding varieties. In public corporations, the government, as the sole share-holder, is the owner, and the management of which is delegated to a separate body outside the public sector. Privatisation is chiefly envisaged at the level of management. In the Hong Kong model, members of this managerial body are all appointed by the Governor as opposed to the ministerial appointment in other democratic countries. In the latter, the three levels of control, namely, government, legislative, and public controls are integrated into an organic whole because ministers are answerable to the legislature elected by the people. In Hong Kong, given the nature of the political system, at a formal level, legislative control is almost non-existent -- effective only when the corporation needs appropriations, much less public control. The supervision rests with the Governor through appointing a few official members to the managing board to keep abreast of matters concerning the corporation. It is true that the control of public corporations is equally a problem as far as foreign experience is concerned, for it is difficult to interfere into the corporate affairs under the name of managerial independence and professionalism. But the dearth of democratic control in the case of Hong Kong has created a new dimension of the problem and not surprisingly, public disputes with the public corporations become the order of the day. To include members elected from among the interest groups, a kind of corporatist arrangement,[74] to increase the representativeness of the board, certainly can help alleviate the problem, but that may induce political influences, to the detriment of managerial efficiency, the most important virtue of public corporations. After all, public participation has been enhanced by opening a new avenue for "administrative absorption",[75] besides the advisory committees, through appointing unofficial board members selected from the community. It seems the ultimate solution still counts on the democratisation of the political system.

But the problems of control given above do not apply to the non-revenue-yielding public corporations, sheerly because they do not have their own source of income except from the Government to whom they must show their deference.

By hiving-off governmental activities to a quasi-private party with a membership appointed by Government, the public corporation is in essence a de-politicised structure which can act as an administrative buffer to shield Government officials from political pressure.[76] It has been speculated every now and then that the Government's motive for corporatisation, which gathered momentum in recent years, has been, among others, to serve a two-fold purpose, to reduce the political pressure it faces in the transitional period and to curtail the administrative power of the future SAR government.[77] Be that as it may, corporatisation, as a category of privatisation, is an extension of the traditional non-interventionist approach of the Hong Kong Government in the implementation of public policy. And the change of the mode of organisation, from a government department to a corporation, or the creation of the latter, is to facilitate an adoption of the management style of private enterprises including a "marketised" form of resource allocation for the revenue-yielding public corporations.

CHAPTER III

SUBSIDIES, VOUCHER ARRANGEMENTS, AND CONTRACTING

PURCHASE OF SERVICE

This chapter will examine another alternative for the privatisation of Governmental functions and activities, which can be subsumed under the heading, "purchase of service". That is, instead of direct or in-house provisions, the Government buys the services it has to supply from the private sector, both non-profit or for-profit bodies. In this connection, three types of institutional arrangements can be discerned, namely, subsidies, voucher arrangements, and contracting. Each of these will be dealt with in detail in the sections which follow.

SUBSIDIES AND VOUCHER ARRANGEMENTS

In subsidies, government puts in the money; the private party, naturally a voluntary agency in general, i.e., a non-profit-making organisation, runs the business for the benefit of a third party: their clients. As John F. Jones puts it, subsidies are "direct payments by a government agency to a voluntary organisation as a reimbursement for care or service given to an individual for whom there is a public responsibility."[1] When a government funds voluntary services, it is usually in the belief that a voluntary agency can provide the service more appropriately (an ideological value), more efficiently (an economic consideration) and more effectively (a practical judgement).[2] In Hong Kong, over time the subvented sector which thrives on Government funds has been extended to cover most of the social welfare, education and medical and health services.

Voucher is also a kind of government assistance by cash payment. But unlike subsidies that fund the producer and restrict the consumer's choice to the subsidised producers only (if he wishes to avail himself of the subsidy), the voucher system subsidies the consumer direct and permits the latter to exercise relatively free choice in the marketplace to pick up a private producer. The government issues vouchers representing a certain monetary value each to eligible consumers to pay for a prescribed service or good supplied by the market.[3]

It is palpable that the greatest advantage of the voucher approach is its ability to foster consumers' choice on the part of the voucher recipients and competitions on the part of the producers.[4] Voucher programmes, in a variety of forms, are best known in the United States. These include "food stamp", "Medicaid" (medicare enrollment card), rent voucher, transportation voucher, cultural voucher and education voucher.[5] The School Medical Service Scheme and the proposed Direct Subsidy Scheme are local examples of subsidies operated on voucher mechanism.

Social Welfare

Public-Private Partnerships

Social welfare in Hong Kong was started as a sort of charity provided by private benevolent groups, missionaries, international welfare organisations relied heavily on overseas donations.[6] Philantropic organisations like the Tung Wah Group of Hospitals and the Po Leung Kuk have already given more than a century service to the people. The influx of immigrants from Chinese mainland in the 50s and 60s triggered tremendous demands for welfare services. In 1958 the Social Welfare Department was formed to cope with this situation.[7] At the same time, economic growth since the post-war age was impressive; public revenue grew by leaps and bounds. The Government gradually replaced the private sector to take up the burden of social welfare.

At this juncture, the role of the voluntary agencies (VAs) has to be defined. The principle of partnership in the provision of welfare services was thereby officially recognised in the 1965 White Paper, the first policy document issued by Government on social welfare, entitled "The Aims and Policy of Social Welfare".[8] It suggests, "The Hong Kong Government should support and cooperate with voluntary organisations in a programme directed to the coordination of available resources, and to planning for the future improvement and necessary extension of voluntary welfare services."[9] The White Paper thus gave due recognition to VAs as the pioneers of social service in Hong Kong, but noted the tendency of Government to assume ever widening responsibility in the welfare field, leaving to VAs the task of complementing statutory services and undertooking work which is outside the scope of statutory provision.[10]

In the section entitled "The Role of Voluntary Organisations", the criteria for determining the appropriate sphere for voluntary effort were stated as follows:[11]

(a) where specific services are provided for special groups, e.g., the deaf, the aged;

(b) where special resources not available to Government may be used, e.g., overseas funds, proceeds of local appeals, support from a charitable trust or foundation, volunteer staff;

(c) where voluntary agencies can effectively perform needed services at less cost than Government; and

(d) where the service provided is desirable but not of high priority, and could if necessary be reduced or eliminated during a period of economic recession.

The White Paper also recognised the ideological reasons for supporting voluntarism and the practical implications of such a policy. "Voluntary effort is an essential element in a free community, if its citizens are to develop and manitain a sense of responsibility for the well-being of others. Such effort also serves as a means of channelling the charitable impluses of people in socially desirable directions and taps financial resources not otherwise available, thus relieving to a marked degree the burden falling upon public funds."[12]

The White Paper of 1973 on social welfare was again very explicit on the role of the public and private sectors. By that time, overseas support for the voluntary agencies had decreased in importance; Government had become the principal source of funding;

and Government had expanded its social welfare to include social security.[13] This White Paper states, "The Government has the ultimate responsibility for ensuring that Hong Kong has satisfactory social welfare services available to everyone irrespective of race or creed."[14] And this responsibility could be discharged by Government in five ways:[15]

1. By maintaining peace, order and good government, the prerequisites of social welfare;
2. By continuing to provide the majority of the funds available for social welfare in Hong Kong;
3. By offering certain direct social welfare services and also supporting services, e.g. training facilities for other agencies;
4. By carrying out its statutory obligations which it alone can fulfil; and
5. By having other departments, besides the Social Welfare Department, involved in the provision of services.

On the part of the voluntary sector, the White Paper anticipates public-private cooperation as it writes, "[E]xperience has shown that if there is a vigorous voluntary sector, with agencies specialising in different areas, then the Government can make fruitful use of these agencies' services so that together the Government and the voluntary agencies share in the extension of service."[16]

The document provides three main reasons, among others, why it was important to maintain the strength of the voluntary contribution:[17]

1. Voluntary social services can provide a basis of comparison with Government services, and perhaps stimulate improvement;
2. Voluntary agencies can be more experimental in pioneering new programmes or in raising standards of existing services;
3. Non-government agencies have been traditionally successful in harnessing the volunteer spirit and utilising volunteers;

The 1979 White Paper entitled "Social Welfare into the 1980s" reiterated the role of the voluntary welfare asserted in 1973: "In Hong Kong's circumstances, there remains an important role for a vigorous, progressive and responsible voluntary sector, working in mutual understanding and close cooperation with the Government."[18] It clearly delineates the Government's fuctions in welfare provision into three-fold: 1. to direct and coordinate the development of social welfare services including overseeing and monitoring the implementation of services according to set priorities; 2. to provide an adequate social security system and certain social welfare services direct, particularly those required by law; and 3. to ensure that funds are available for the social selfare services which the community needs.[19]

Statutory services are those tasks charged with the Social Welfare Department (SWD) in the field of probation and corrections, adoptions and the care and protection of women and children. These functions in most places cannot be farmed out to VAs. Other welfare services run by SWD concentrate on family services, group and community work and rehabilitation.[20] But the division of labour tends to tilt much toward the VAs which numbering more than 450 by now, have been estimated to have provided two thirds of all social welfare services in Hong Kong.[21] Thus services for the elderly, youth and children centres and child day care services are solely operated by the voluntary sector.[22] Programmes like youth centres, out-reaching social work, school social work, Minibus Scheme for the disabled, protection of children against abuse and community development, among many others, were first initiated by VAs, reflective of their pioneering role in welfare provisions.[23]

Subvention Policies

In line with the policy set in the White Paper of 1965 and 1973, the Government started financing VAs by providing subventions which have increased by about 300 per cent from $25.2 million in 1973/74 to $100 million in 1978/79, and continuously rose in the 1980s at a rate of 23.2 per cent on average. By 1987/88, the allocation amounted to $619 million, representing yet another three-fold increase over the 1980/81's $146 million (see Table 3.1). A breakown of subventions by programme is given at Table 3.2.

Table 3.1 Government Subventions to VAs on Social Welfare Services.

Year	Recurrent Expenditure (HK$)	Rate of Growth (%)
1980-81	146,298,202.00	--
1981-82	189,989,952.09	29.86
1982-83	267,303,066.80	40.69
1983-84	321,803,230.12	20.39
1984-85	374,592,792.14	16.40
1985-86	448,465,831.03	19.72
1986-87	504,371,363.43	12.47
1987-88	*619,519,976.00	22.83
	Average:	23.19

* Allocation

Source: Departmental Report, Director of Social Welfare, 1981-88.

Table 3.2 Government Subventions to VAs on Social Welfare Services (Recurrent Expenditure) by Programme.

Programme \ Year	1983-84 (Expenditure)	1984-85 (Expenditure)	1985-86 (Expenditure)	1986-87 (Expenditure)	1987-88 (Allocations)
Community Building	90,099,878.00	108,761,450.70	125,664,129.25	140,314,482.60	167,256,793.00
Young People	42,197,832.25	39,683,891.25	48,559,036.00	48,539,123.71	59,310,740.00
Family Welfare	68,510,348.80	80,638,179.35	95,894,865.14	104,302,245.65	128,587,831.00
Offenders	6,675,215.00	7,251,548.00	8,120,504.50	8,178,257.01	9,328,267.00
Elderly	34,424,834.38	44,637,674.20	60,946,980.78	79,319,226.39	96,885,181.00
Rehabilitation	48,323,272.20	58,325,328.70	70,251,565.18	81,487,776.70	112,557,773.00
Social Security	57,918.20	72,185.78	76,719.00	72,373.55	118,052.00
Social Welfare Support	27,294,611.55*	30,271,297.25*	32,294,020.50*	34,096,386.12	38,121,438.00
Rates	4,219,319.24	4,951,236.91	6,658,010.68	8,060,491.70	7,353,901.00
Total	321,803,230.12	374,592,792.14	448,465,831.03	504,371,363.43	619,519,976.00

* including rent subsidy for non-subvented agencies and replacement grant

Source: <u>Departmental Report</u>, Director of Social Welfare, 1988.

At present, up to 70 per cent of all VAs have their income solely depending on Government subventions with the virtually complete withdrawal of overseas assistance.[24] In 1986/87 subventions for recurrent expenditure amounting to $567.4 million were alloted to 152 major welfare agencies.[25] The Lotteries Fund which finances capital expenditure in the same year has contributed an amount of $123.8 million allocated to 220 agencies.[26] To be sure, VAs also rely on the Community chest, the Jockey Club and private donations and charitable trust funds, although only a fraction comparing with Government funding, to sustain their activities.[27]

The current subvention system was devised in 1982, following a report by the Working Party on Provision of Social Welfare Services and Subvention Administration, completed in June, 1980, which provide for all social welfare services to be classified into two categories for funding purposes.[28] Services in Category I receive a subvention designed to meet the full cost of a specified standard of service, adjusted for price increases and disregarding all income other than recognised fees. Services belonging to this category must be those that are required by law; that are to satisfy the basic needs of human beings; and that can come as contingent measures to mitigate an acute social problem. More than 80 per cent of the voluntary welfare have been classified as Category I services and received 100 per cent assistance. These include old people's homes, nursing centres and sheltered work for the disabled, etc.[29]

Category II services usually receive less than 100 per cent support based either on a fixed percentage of the standard cost, which will apply to all agencies providing that service, or on a lump sum basis if standard costs cannot be determined, also adjusted for price increases and disregarding individual income other than recognised fees.[30] Agencies providing services under the standard cost scheme have allegedly been given maximum flexibility in resources deployment as the level of subvention is not arrived at arbitrarily like that of the old discretionary system, easing them from financial uncertainty.[31] None the less, this scheme currently applies to only eight types of services, namely, small group homes, neigbourhood level community development projects, school social work, foster care service, family life education, pool bus service for the elderly, family casework service and outreaching social work.[32] There is a strong urge in the social work circle for an extension of the standard cost part to other services to the eventual phasing out of the lump sum grant which is discretionary in nature.[33]

When calculating the standard cost, the Government's practice is to exercise parity of personal emolument, basic salary, between employees of Government and staff of VAs in as far as working conditions are concerned, though ratio of senior posts is much smaller in the latter. In respect of fringe benefits, agency staff are deprived in many ways including the absence of housing allowance or staff quarters (very often only applies to the chief executive); inferior medical covers and retirement pensions; and fully paid maternity leave and educational allowance for employee's children are noted by their non-existence.[34] It is no doubt that the subvented welfare sector could deliver services cheaper and more cost-effective than its civil service counterparts. After all subventions to VAs account for only 20 per cent of Hong Kong's total welfare expenditure, yet they provide over 70 per cent of all welfare services, indicating their great resourcefulness.[35]

Monitoring

Without exaggeration, given the heavy share of VAs in welfare provisions, most of the work of SWD are concerned with the monitoring of services and allocation of funds; it is primarily a service arranger, not a service producer. To maintain a proper and the best use of public funds, allocations to agencies are made through a onerous procedure set by SWD. First, each organisation applies for subvention to the Director of Social Welfare with the necessary documentation to justify its claim; the Department vets the application, and if necessary, revises it, generally after consultation with the agency concerned. The revised application with the Director's comments and recommendations is then put to the Subvention and Lotteries Fund Advisory Committee (or the Social Welfare Advisory Committee previously) which in turn makes its recommendations to the Finance Branch of the Government's Secretariat and, after discussion, an agreed sum is entered into the draft estimates in the name of the particular voluntary agency.[36]

SWD also has the responsibility to ensure that public funds allocated are used for their intended purpose. In 1979, the regionalisation of SWD came into effect resulting in the creation of four branches at the headquarters level and eleven districts grouped under four regions at the operational level.[37] This change in structure is to facilitate two main objectives -- the strengthening of local district coordination and the delegation of evaluation of VAs to the district officers instead of the central Subvention Branch.[38] Local staff keep close contacts with the subvented units through regular visits to make sure that subvention is properly assessed and spent and also to identify areas where agencies need help, be it technical or financial, to improve and expand service. Internally, the Evaluation Section of the Department provides advice and guidelines to district officers on matter relating to the monitoring of subvented activities. A Statistcal Information System has been maintained to collect management and service information from subvented agencies on a regular basis for the purpose of evaluating agency performance.[39]

The Hong Kong Council of Social Service, formed in 1951 as a central body for the planning and coordination of VAs, also plays a prominent role in overseeing the service standard of its more than 110 member agencies.[40] There is no particular law to lay down rules and regulations for VAs. Depending on the way of formation, they will be bound by the Companies Ordinance or Societies Ordinance. Some of the major agencies, about 12 to 15 of them, are however statutory organisations. They are incorporated by statute and controlled by individual ordinance. Agencies on this list include the Caritas, Hong Kong Society for the

Blind, Hong Kong Society for the Protection of Children, the Salvation Army, Young Men's Christian Association, Society for the Relief of Disabled Children, the Red Cross and also the Tung Wah Group of Hospitals and the Po Leung Kuk, the last two of which will be dwelt on below.[41] Overall, it seems, with rooms for improvement, the enterprising spirit and the quality sustained by the voluntary welfare have proven the effectiveness of monitoring.

Education[42]

By looking at the percentage distribution in 1981-82 of education subventions in the education expenditure (see Table 3.3) which stands at 61.3 per cent, it can be seen that the Education Department (ED) is very much a service arranger reminiscent of the Social Welfare Department rather than a producer, whose expenditure only accounts for 14.2 per cent of the total. In the secondary sector, ED only operates 36 schools, but aided schools run by private voluntary bodies and financed by Government subventions have reached a number of 300 in 1988.[43] Between 1980-84, only 6-8 per cent of the Forms I - III places and 10-14 per cent of the Forms IV - V places were directly provided by Government; the rest of them were either aided places (60 per cent and 80 per cent respectively) or bought

Table 3.3 Education Expenditure, 1974-82.

$ million	1974 -75	1975 -76	1976 -77	1977 -78	1978 -79	1979 -80	1980 -81	1981* -82
Education Department	188.7	200.1	226.4	255.8	282.1	315.4	452.9	489.6
Education Subventions	685.0	721.3	843.2	982.4	1161.9	1462.1	1965.3	2106.6
Universities and Polytechnic	225.0	310.2	296.4	332.2	414.3	547.5	810.3	840.6
Total	1098.7	1231.6	1366.0	1570.4	1858.3	2325.0	3228.5	3436.8
(Annual % increase)	(13.9)	(12.1)	(10.9)	(15.0)	(18.3)	(25.1)	(38.9)	(6.5)

* Estimation.

Source: The Hong Kong Education System, A Green Paper, Education Department, June 1981, p. 75.

places (see below).[44] Indeed same as social welfare, educational work (primary and secondary) were largely undertaken by private endeavours in the early history of Hong Kong.[45] Beginning in the 1970s, especially after the introduction of the nine-year universal, free and compulsory education in 1978, the Government drastically increased spendings on education. Many of the private schools were, through a scheme of conversion, turned to aided status.[46]

Codes of Aid

The Codes of Aid under which voluntary effort in education receives Government supports, strictly speaking, are not categories of subvention but rather an administrative device to allow the Government encourage and direct non-Government initiatives.[47] There are four separate codes prescribing the rules and conditions governing financial grants to schools in the aided sector. These are:[48]

(i) the Code of Aid for Primary Schools;

(ii) the Code of Aid for Secondary Schools;

(iii) the Code of Aid for Special Primary Schools and Special Classes in Primary Schools; and

(iv) the Code of Aid for Special Secondary Schools and Special Classes in Secondary Schools.

In addition, the Director of Education lay down in a set of rules the conditions on which financial assistance is made available to the approved post-secondary colleges and their students. Aid to schools may consist of one or more of the following grants:[49]

(a) Recurrent grants: salaries grant, capitation grant, library grant, administration grant, janitor staff and cleaning grant, textbook and stationary grant, rent and rates grant and passages grant.

(b) Non-recurrent and capital grants.

The kinds of grant necessary to cover the normal expenditure of a school is calculated in such a way that such grants together with income from tuition fees, normally standard fees approved by ED, should in general be sufficient to enable an aided school provide education of a standard acceptable to the Director of Education. In fact, just like Category I service in welfare provisions, the subsidy is 100 per cent in respect of the recurrent expenditure; capital grants for buildings, furniture, equipment and the like are normally made in the ratio of 80 per cent contribution by the Government and 20 per cent contribution by the school.[50]

The Bought Place Scheme (BPS)

Along with the provision of nine years' compulsory education, the BPS was instituted by ED to offer subsidy to different categories of private secondary schools attaining a reasonable standard by way of buying places. It was intended to be an ad hoc measure to cope with the great upsurge of demand for free secondary places arising from compulsory education with which both the Government and aided sector would not be able to meet.[51] The basic principle of this scheme is that a grant calculated on the basis of the notional subsidy per place and adjusted for price increases each year is payable to the sponsoring bodies concerned.[52] In fiscal 1986-87, that grant was valued at $3,837 per place, comparing with the nominal $8,752 for aided schools and $11,891 for Government schools which are respectively a half and two thirds higher.[53] According to the Education Ordinance, ED exerts fee controls to avoid subsidising profits. The effect of this is to make BPS schools dependent on the Scheme for financing. The low level of grant implies that resources available to private schools are much less than the Government and aided counterparts. In other words, the Government has tended to mobilise private efforts to provide relatively cheap and consequently inferior school places to make up the shortfall in provisions from expediency.[54] Accordingly, the Education Commission Report No. 3 published lately has called for the abolition of the BPS in due course (be phased out by the year 2000) and recommended a new Direct Subsidy Scheme (considered below) in place of it.[55] To be sure, ED as planned has progressively reduced the number of bought places over the past years (see Table 3.4). In 1987, there were 62,958 places in the BPS, representing approximately 14 per cent of the total secondary school demand.[56]

Table 3.4 Number of Form I Bought Places over the Total, 1979-86.

	A	B	%
Year	No. of Form I Bought Place	No. of Total Form I Place	A / B
79	58,785	109,132	53.87
80	51,708	100,438	51.48
81	48,990	95,506	51.29
82	44,505	90,997	48.91
83	25,111	89,622	28.02
84	23,151	88,347	26.21
85	23,351	91,380	25.55
86	22,656	92,948	24.37
Total	298,257	758,370	39.33

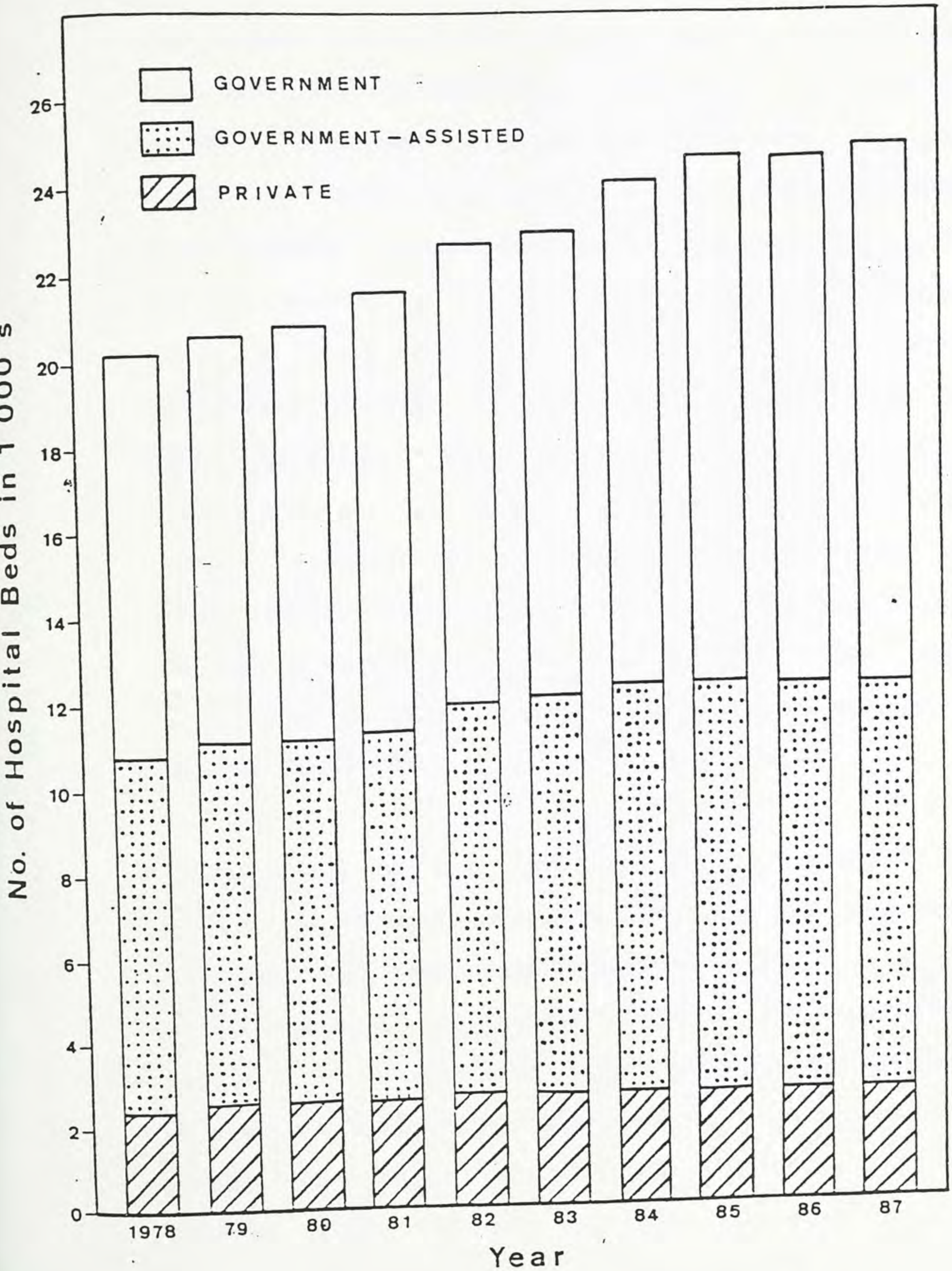
Source: Departmental Report, Education Department, 1980-87.

Medical & Health Services

The medical sector is the third area in social services to which Government subvention goes. Hong Kong's medical and health services are one of hospital-based. At present there are 14 Government, 23 subvented and 11 private hospitals, each providing a number of hospital beds of 12,360 (50.3 per cent), 9,540 (38.8 per cent), and 2,660 (10.8 per cent).[57] Under codes of aid akin to those of schools, subvented hospitals operated by voluntary institutions are virtually entirely funded

Table 3.5 :

HOSPITAL BEDS 1978-1987



Source: Departmental Report, Director of Medical & Health Services, 1988.

(99 per cent for recurrent expenditure and 100 per cent for capital expenditure) by Government to make up their huge shortfall in financial resources.[58] They provide exactly the same services and charge the same fees mostly as Government hospitals but have contributed significantly to cost reduction. Expenses per bed are set at a level by the Medical and Health Department which is only equivalent to one third to a half of Government beds.[59] As a result these hospitals have been providing a valuable service at a bargain price that cannot be duplicated by the better-funded public wards, although quality has been somewhat traded for cost. It is estimated that at a subvented hospital, a bed can be barely run for as low as $270 a day, while at Princess Margaret, a public hospital, it may cost as much as $2,000.[60]

Constrainted by the level of public funding, the subsidised medical services are not as thoroughly equipped and staffed as Government ones. Regarding establishment, the number of doctors in a subvented hospital of similar size is usually just one third or at best a half of the Government's. Soo too are the nurse-to-bed ratios. It is also glaring in the poor benefits and promotion prospects of staff in the subvented sector, resulting in chronically high staff turnover.[61] Over the years, the subsidised medical services have been notoriously deteriorating, to the extent that they are underutilised with a bed occupancy rate running at about 85 per cent; in contrast Government wards are plagued by overcrowding.[62]

The Scott Report published in 1985 attempts to address the problem by creation of a Hospital Authority (see Chapter II) independent of the civil service which will seek for an integration of Government and subvented hospitals by putting the two under its jurisdiction. It would mean a standardisation of medical services and an upgrading of subvented hospitals which are to be made on par with the public ones in employment policies and facilities after the merger.

Two Case Studies of VAs

Tung Wah Group of Hospitals

Founded in 1870 by Ordinance, the Tung Wah Group of Hospitals is assuredly the largest subsidised voluntary body in the territory. Today this charitable conglomerate discharges a wide range of activities geared to the pressing needs of society, by statute, these are:[63]

1. to provide the inhabitants of Hong Kong with medical services in the following institutions:

(i) the Tung Wah Hospital;
(ii) the Kwong Wah Hospital;
(iii) the Tung Wah Eastern Hospital;
(iv) the Wong Tai Sin Infirmary; and
(v) the Tung Wah Sandy Bay Convalescent Hospital.

2. to manage the Tung Wah Yee Chong and the Wing Pit Ting farewell pavilion;
3. to manage the Man Mo Temple;
4. to maintain and manage schools and other educational institutions in Hong Kong;
5. to pay for the burial and reburial of the Chinese;
6. to provide funeral services for the Chinese; and
7. to maintain and manage homes for the aged; to provide all kinds of social and cultural services for the Hong Kong community.

In fiscal 1987-88, the Group has 86-87 per cent of its revenue coming from Government subventions, the balance being incomes from service fees, rental and private donations.[64] Medical subvention alone has accounted for more than one third (36 per cent, see Table 3.6)) of the total appropriation from the Medical & Health Department for voluntary institutions. The Group's five hospitals altogether supply more than 4,000 beds, representing 16 per cent of ward space in Hong Kong.[65]

Table 3.6 Percentage of Government Medical Subventions (Recurrent Expenditure) to the Tung Wah Group of Hospitals.

Year	Medical Recurrent Subventions Tung Wah Group of Hospitals($)	Total($)	Percentage
1980-81	170,909,884	446,663,173	38.26
1981-82	214,920,741	583,810,330	36.81
1982-83	265,294,284	724,856,264	36.6
1983-84	299,777,000	813,708,000	36.84
1984-85	345,240,000	941,283,000	36.68
1985-86	381,182,000	1,088,534,000	35.00
1986-87	423,499,000	1,218,802,000	34.74
1987-88	461,243,000	1,342,060,000	34.37

Average: 36.16

Source: Departmental Report, Director of Medical & Health Services, 1981-88.

The Tung Wah Group of Hospitals Ordinance of 1971 provides a legal framework for its operation. The Group's administrative and financial autonomy are given to its Board of Directors elected once a year in respect of the day-to-day administration including raising, collecting funds and making investments. The Board consists 11-20 members, most of them being businessmen, professionals and local dignitaries.

Considering the enormous funds paid from public purse, accountability is of paramount importance which has seemed to have been well taken care of in the Ordinance. Above the Board of Directors is an Advisory Board whose duty is to advise the directors on any matters affecting the Group. This Advisory Board with membership of not more than 14 is to have following ex-officio members:

(i) the Secretary for District Administration, who shall be the chairman;

(ii) the Secretary for Health and Welfare;

(iii) 1 person each of the unofficial members of the Executive Council and Legislative Council; and

(iv) not more than 8 members appointed by the Governor.

In addition, there is a Medical Committee comprising not more than 14 members wholly appointed by the Governor, which is delegated all necessary powers and duties to act as the executive and administrative authroity in all matters relating to the Group's medical services -- the mainstream of the Group's activities.

In reality the Advisory Board seldom interferes the work of the Board of Directors. Its role is rather of symbolic value although decision-making power of all major matters is vested in it. Measures of financial control are attained by ruling that books of account be open at all times to the inspection of any person appointed by the Governor; and the chairman of the Board of Directors within six months after the expiration of his terms of office has to send to the Chief Secretary a statement of the accounts of the Group. Any transfer or sales of property, immovable and movable, must obtain the prior consent from the Governor and the Advisory Board.

Other than a charter, a close scrutiny is deemed necessary for a proper use of taxpayers' money. Tung Wah as a prestigious organisation which has built up an credibility image of creditability in the community out of its century long service, is of no exception. The outbreak of the FASS issue is a case in point. FASS (Final Average Salary Scheme) is a non-contributory retirement scheme launched in 1977 to serve 2,500 employees through the investment of an unknown sum lodged by the Group from donations and Government subsidies. Due to poor management and faulty investment policies in 1987, it was on occasion unearthed that there was only $79 million left in the FASS fund -- almost about $110 million short of the amount needed to settle the claims of its members. Resentment mounted high amongst the staff and the dispute has lingered on for nearly a year. The case finally ended after protracted negotiation and acceptance on the part of the staff to a less favourable provident fund scheme. Tung Wah, to make up the failing fund, for its part, would have to delay several expansion projects including the construction of an administration building and the extension of the out-patient department of the Kwong Wah Hospital in Kowloon, which would cost the Group a total of about $40 million, in additon to a pick up of more than $20 million -- or 80 per cent of its reserve fund to tie up the rescue package. And the Finance Committee of the Legislative Council had yet to arrange a special allotment for an undisclosed amount to close the case.[66]

Po Leung Kuk

Founded a bit later than the Tung Wah Group of Hospitals in 1878, the Po Leung Kuk was first engaged in the relieving of victims of abduction cases. As time passes by, it gradually evolved into a welfare giant offering diversified social services.[67] Like Tung Wah, the Kuk was incorporated by statute. The Po Leung Kuk Ordinance of 1973 has set out its statutory activities as follows:

1. to provide and maintain a temporary home for

women and children who are in need of care and protection until proper provision is made for their marriage, adoption or settlement in life;

2. to provide vocational training and education in suitable cases for women and children who are in its care;
3. to establish, maintain and manage homes and nuresries;
4. to establish, maintain and manage schools and other educational institutions in Hong Kong; and
5. to provide all kinds of social services for the Hong Kong community.

As of March, 1987, by one count, the Po Leung Kuk operated 11 units of babies, children and girls' homes (for orphans, abandoned children and unmarried mothers, etc.), 21 nurseries, 3 sheltered workshops and 2 hostels for the mentally retarded, 2 old people's homes, as regards to social welfare services; and 8 secondary schools, 12 primary schools, 8 kindergartens and 4 special schools.[68]

Mapping out a blueprint for its organisation and administrative structures, the Ordinance of 1973 bears exactly the same provisions as those for the Tung Wah Group of Hospitals given above. Briefly put, the executive function is vested in an annually-elected

Board of Directors which is empowered to run the Kuk within the confines of the Ordinance. For important policy decisions, such as those concerning disposals of property, the Advisory Board,of which the Secretary for District Administration, Secretary for Health and Welfare and Director of Social Welfare, are ex-officio members, must be consulted. Books of account must be sent each year to a person appointed by the Governor who is actually the supreme head of the Kuk, for inspection. Through those provisions, the Government intends to exercise a watchdog role to see to it that the moneys it puts in are used in the proper places.

The School Medical Service Scheme

To provide primary health care to school-age children is a traditional job of modern governments all over the world. In Hong Kong this is achieved by the School Medical Service Scheme operated by an independent statutory School Medical Service Board. The Scheme was initiated by a working party appointed by Government on the matter in 1962 and put into practice in 1964.[69] It offers an economic form of medical treatment service through Government subvention to all school children in Primary I to Form III. For a token fee of $10 a year, a pupil can receive free medical attention from a private medical practitioner of the school's choice. The

Government represented by the Board contributes $65 a year for each pupil. Participation in the Scheme is voluntary. The school principal has freedom to choose a doctor in the marketplace and a participation card tantamount to a medical voucher is issued to each pupil enrolled.[70] As at 31 March, 1988, 439 doctors were enlisted and over 380,000 school children from 912 schools, representing a coverage of about 48 per cent of the total eligible school population, participated in the Scheme.[71]

The Scheme was however under attack very recently. It was suggested enrollment would improve if parents and pupils were approached direct and had a choice of doctor. Moreover, corruption was found prevalent between schools and doctors. In October 1988, the Scheme was revised. A direct approach to parents and individual choice of doctor were adopted. This switch has increased enrollment at once by 50,000 in that year but also received objections from doctors complaining the services as being too cheap. Subsequently, the School Medical Service Board will have to further revise the Scheme in the academic year of 1989-90 by raising Government contribution to $120 for each pupil and parents will be charged with an extra fee of $10 for each visit.[72] In any case, the School Medical Service Scheme, be it school-based or home-based, is a voucher programme allowing in varying degrees the consumer's choice and relying on private practice as the service producer.

The Direct Subsidy Scheme (DSS)

In the Education Commission Report No. 3 released in June, 1988, a new subsidy programme for the private secondary schools named the Direct Subsidy Scheme was put forward to replace the Bought Place Scheme in the near future. The concept of the DSS is of a scheme under which the Government can subsidise and encourage the growth of a strong private school sector, while allowing schools the maximum freedom with regard to curricula, fees and entrance requirements that are consistent with basic educational standards.[73] The financing of DSS schools is a voucher-like arrangement, which is calculated on a per pupil basis, i.e., the amount of Government subsidy earmarked for a school is commensurated with the number of students enrolled (as opposed to the number of student places available). The level of financial assistance is all contingent upon a school's ability to attract students and compete with its counterparts in the marketplace.

In specific terms, it was recommended that DSS schools, given the above, be funded by a system of block grants assessed according to school fee income. The grant to a given school should be equal to the difference between the school's income from fees and the notional cost to the Government of an aided school with a similar number of students. Schools with low fees would receive the full grant for each student; whilst the schools with the highest income would receive a minimum of 25 per cent of the full grant.[74] The core of this Scheme is for the Government to lift controls on fees, entrance and curriculum, so that parents can choose schools for their children. While education voucher has become increasingly popular in many countries including Britain, the DSS is certainly a noval programme to the local educationists.

A heated discussion as to its merits and demerits has been aroused. The private school sector, possibly the beneficiary of the Scheme, welcomes it. Most people at large also applaud it on the ground that it would promote educational innovation and diversity, parental interest in education, and school's responsiveness to parent and student needs. The major objection to the DSS is founded on the worry that it would lead to a hierarchy of schools, based on fees, reputation, qualities, facilities and so on, countering the value of popular education purported in the adoption of the nine years' compulsory education.[75] And the Report seemed to have reinforced that event as it allows that not only private schools, but all aided schools are eligible to applying to join the DSS.[76] Those schools with long history and high prestige in the aided sector, by going "private", will then easily turn to "elitist" and "rich men's" schools.[77]

CONTRACTING

Contracting describes a process where one organisation contracts with another for the provision of a particular good or service.[78] It involves two parties: the one letting the contract and the contractor. Contracting may exist within the private sector in which the two parties are private bodies; or within the public sector whereby one sub-national government contracts with another for the supply of a good or service. The latter, being known as "intergovernmental agreements", has been in widespread use agmonst the state and local governments in the United States.[79] Contracting may occur across countries. One typical instance is the "international sub-contracting" as called by Michael Sharpston, which refers to a situation that firms in developed countries "contract out" to producers in developing countries the manufacture of certain products or components and the performance of certain processes.[80] Another case of contracting which is our focus in this Chapter, is one found between the public and private sector, that is, in the words of Marc Bendick, Jr., the provision of public goods or services through issuance of contracts to private firms instead of having those goods or services produced directly by a government agency.[81] Ira Sharkansky and others have identified the incentives for government to contract out what it may otherwise do in-house as follows:[82]

1. To abide by requirements to freeze the size of civil service even while adding to or enlarging the programmes being offered.
2. To purchase services cheaper than they can be had using government employees -- contractors may pay lower wages, and may avoid the fringe benefits required for government employees.
3. To permit government to experiment with policies and new delivery systems. The government can always terminate a contract if the experiment fails, with little or no objection by the affected public.
4. To weaken the power of government employees' unions by giving work to contractors.
5. To save money through leasing rather than purchasing new buildings, since the resultant government budget will show only the annual cost of the rent, as opposed to the expense of a new

capital project.

6. To benefit from the existence of voluntary or charitable organisations that already may be doing what the government wishes to do.

According to foreign experience, contracting has a wide application virtually in all kinds of public and social services ranging from the management of cemetaries, libraries, car parks and museums, vehicle towing, nursing services, drug & alcohol treatment, laundry & catering services in public hospitals, to tax collection, to name just a few.[83] A number of authors have tried to set up criteria to compare the suitability of services to the external (contracting out) or internal (in-house) provisions. In the production choice and sector choice model suggested by James Ferris and Elizabeth Graddy, the factors to be considered in choosing the mode of service delivery include labour intensity, scale economies, the need for standardisation, the degree of collectiveness, a constituency preference for non-profit production in health and human services, the preexistence of non-profit producers, distributional goals and moral hazard concerns, and tangibleness and simplicity of service outputs.[84] Thus services that are labour-intensive with simple and tangible -- easy to measure, outputs, but little distributional and moral concerns will most likely be favourably discharged through an external mode of production by the private for-profit or non-profit sector.

O.E. Williamson, to argue from the opposite, has however identified five conditions in which internal (hierarchical) provision offers significant advantages over contracting in the market:[85]

1. Where flexible sequential decision-making is needed to cope with uncertainties in the environment.
2. Where only a small number of competitors are present, and there is a likelihood of opportunistic and predatory pricing behaviour.
3. Where a divergence of expectations is likely to occur between the internal purchaser and the external seller.
4. Where operational or technological information gained from experience is likely to give one external supplier a strategic advantage over all others, thereby reducing competition.
5. Where a transaction-specific 'calculative relation' between those parties is inappropriate and 'quasi-moral involvement' between those supplying and organising the service is necessary to effective provision.

In any event, granted a careful choice of service, as conceded by Colin Sankey, the Principal Assistant Financial Sectretary of the Hong Kong Government, contracting is probably the category that offers most potential for future privatisation, because the types of services involved generally lend themselves to easy definition and contractual agreements.[86] The American local governments used to purchase social welfare services by means of contracting from the private non-profit organisations or the "third sector", as it is called, -- an impressive 61 per cent of public expenditures for social welfare go to that sector to support the delivery of services under contracts.[87] Hong Kong, as we illustrated above, has followed the other alternative in privatising the delivery of social services, i.e., by subsidies. As a result contracting turns out to be not as common as in the other countries.

At present the Government has contracted out the management of public car parks to be followed suit by abattoirs, and certain cleansing services, to the private sector. The potential candidates for contracting, as proposed by Government and the public, in future courses, would include life-savings for public swimming pools and beaches, refuse collection and treatment (Kowloon Bay refuse transfer station) and management of tunnels (Lion Rock and Aberdeen tunnels), chemical waste treatment plants and parking meters.[88] In some cases, the contract may involve the grant of a franchise to give monopoly of service over a geographical area, for example, refuse collection in certain cities of the United States.[89] In Hong Kong franchise contracts are largely found in the utility sector which we shall consider next in the following Chapter.

Car Park Management

The management of public car parks had been under attack in the early 1980s for its poor performance. The Government itself also was not satisfied for the car park business had recorded losses for many years.[90] In a speech addressed to the Legislative Council in October, 1980, Lydia Dunn, now Senior Unofficial Member of the Executive Council, had queried why the Commissioner for Transport, with his wide-ranging statutory and non-statutory duties, had to run car parks badly.[91] She asked, "Why cannot management franchises for these installations be sold by public tender? I can see no inherent reason why they should not be and I believe that private enterprise would manage them better and with more concern for the consumer, and still earn a reasonable fee for doing so."[92]

In the same year, the Government appointed a working party on car parking facilities, which among others proposed the privatisation of public car parks.[93] Three options were put forward: 1. Sale: to sell all existing public car parks by public tender to interested private firms; 2. Leasing: to lease them to private firms by public tender in return for a monthly or annual rental; and 3. Management contract: to hand over the management of car parks to interested private firms through a contract in return for a premium or rental on a revenue-sharing basis.[94] The third option was adopted and a total of 42 tenders were submitted by 21 companies in 1983.[95] All 10 (increased to 11 in 1986 with the opening of the Tsuen Wan Transport Complex) Government multi-storey car parks were come under private management in 1984.

Under a contract, Wilson Parking (Hong Kong) Ltd., one of the bidders, was elected to manage the facilities for a period of three years.[96] According to the contract, after operating for three months, Wilson Parking would raise the parking charges up to 50 per cent in some of the car parks to bring the charges comparable to commercial rates. But any change of rates thereafter must obtain the prior approval of Government who was also entitled to a share of 80 per cent of the net gains.[97] At present the fees charged in these Government multi-storey facilities are more or less comparable to those of the privately-owned car parks. Under the management of Wilson Parking, an experienced garage operator which also runs car park business in New Zealand and Singapore, the utilisation of public car parks and the operating receipts were both improved. In 1987 the Government renewed the contract with Wilson Parking.[98]

Urban Council: Cleansing Services, Management of Abattoirs and Others

The Urban Council, through its executive arm, the Urban Services Department, discharges a host of municipal functions like street cleaning, refuse disposal, pest control, and the management of abattoirs, public conveniences and bath houses, funeral parlours and undertakers, tennis courts, parks, playgrounds, public libraries, museums and art galleries, etc.[99] These services, obviously having specific and simple outputs, as mentioned before, are good candidates for contracting. In fact the call for privatisation has been looming large at the Council in recent years. Kim Cham, an Urban Councillor at the time, speaking at its annual debate in 1986, suggested, "The community will benefit through a reduction of subsidies to the privatised services, which will be subject to the viability of the business. Customers will benefit from higher standards through the more efficient provision of public services".[100] He said that experiments by the Council on privatisation had indicated it could also bring cost savings and such savings certainly justified their continued effort to experiment further.[101]

Since 1984 the Urban Services Department, in accordance with the recommendations of the Council, has successively undertaken privatisation schemes to contract out cleansing services in the Shaukiwan Squatter Area, Ma Hang Village in Stanley which is a self-cleansing scheme, Kong Sin Wan Village and the cleansing of public toilets in Western Kowloon.[102] A total of four cleansing contracts have been let for those areas. The schemes are successful and have proven to save public funds over the original system whereby the job was carried out by direct labour of the Department. The Council therefore considers extending these schemes to more areas which for this year (1989) would include in addition the cleansing of public toilets, playgrounds and changing rooms in public parks in the area of Tsimshatsui, Yaumati and Mongkok; the cleansing of public toilets, bathhouses and changing rooms in the area of Kwun Tong, Wong Tai Sin and

Kowloon City; and the area of Hong Kong Island.[103] The total value of the contracts will amount to $11 million which would save the Department 600 labours and $25 million in money terms.[104] The Department pledged that it would exert greatest care to see to it that the contract cleaners have observed the terms of the contracts, failing which the contractors will be charged with a fine equal to two times of their remunerations.[105] To enhance competition and reduce risks, the Department does not incline to a franchised cleaner, instead, the contract will be let to each small area so that more companies could participate into the tender exercises.[106]

The Council operates two multi-storey abattoirs, one at Kennedy Town on Hong Kong Island and the other at Cheung Sha Wan in Kowloon. They unfortunately have suffered from deficit amounting to $41 million each year.[107] Sheerly on fiscal ground, the Council has every reason to privatise their operations which could by one count, reduce workers from 200 to 100 for the Kennedy Town abattoir alone (due to civil service rules, a lot more labours are required to work on shift than that of a private company).[108] The contract, on a five-yearly basis, would probably be awarded in a year or so to Ng Fung Hong, a fully-owned subsidiary of China Resources (Holdings) Co., Ltd. The Company handles wholesale trading of all China-imported livestocks in Hong Kong.[109] The greatest stumbling block to the privatisation scheme is on disestablishing the existing staff of the abattoirs. The Council is reluctant to compensate them, like those of the Kowloon-Canton Railway, for their leave, the expense of which would amount to $28 million.[110] Time has been expended in negotiating the transfer of the staff to other departments which consequently delays the privatisation of the Kennedy Town abattoir planned as early as 1983.[111]

Besides cleansing services and the management of abattoirs, the Council has also pondered contracting out the life-saving jobs in swimming pools and beaches.[112] On the whole, given the myriad of services of the Council being highly suitable for contracting, the pace of privatisation in its Urban Services Department has been slower than what the Councillors expected. The reason, as they gave, is largely attributed to the problem associated with disestablishing the public employees concerned.[113]

SUMMARY

In the foregoing we have highlighted, as far as possible, the different modes of financial arrangements by means of subsidies catered to private efforts in the delivery of social services in Hong Kong. Two classes of subsidy programmes can be distinguished: in one instance subventions are given to selective service producers; and in the other they go direct to the pockets of qualified consumers, which has come to be known as vouchers.

The three pillars of social services, social welfare, education and health are heavily subsidised by Government through cooperation with the voluntary sector which has now discharged two thirds of all social welfare and education (primary and secondary) servics and almost a half of the hospital care in Hong Kong. Hui Yin-Fat, Executive Director of the HKCSS, has likened their partnership to a house-keeper/ revenue-spender relationship.[114] Paid actually by Government, VAs have employed more than 70,000 people which is equivalent to more than one third of the total civil service force.[115] Subventions to those sectors account for 20 per cent of the total recurrent expenditure in the public budget.[116]

Health, education and welfare are often thought of as merit goods by economists associated with positive externalities vital to national development.[117] Although the Government used to devote close to half of the total expenditure on those areas, this only represents a very low percentage compared with the GNP (cf. Chapter I). The fiscal constraint inherent in the budgetary policies has made it impossible for Government to provide these services by itself in sufficient quantities. As noted by one Legislative Councillor, the Government's social policy therefore "aims to provide maximum social services through voluntary agencies at a minimum cost."[118] The reason for VAs to come into prominence is precisely due to its ability to discharge similar level of services quality-wise, given an appropriate control, at cheaper cost, not to mention their flexibility and the role in trimming and taming the size of the civil service. Small wonder, though most of the voluntary institutions are fully subsidised, the Government has hesitated so far to take over anyone because it is getting a bargain service.

Besides subsidies and vouchers, a third arrangement through which the Government buys services from the private sector is contracting. Our study shows that most municipal services presently delivered by the Urban Services Department under the direction of the Urban Council are good candidates for contracting. Mainly because of the difficulty arising from the disestablishment of the existing civil service staff, a cautious approach has been followed by Government. This consequently slows the pace of privatisation of those services.

CHAPTER IV

FRANCHISES AND JOINT-STOCK COMPANIES

This chapter will be devoted to an analysis of franchises and joint-stock companies, two institutional arrangements for privatisation found particularly in the utility sector of Hong Kong. As before, it will focus on the organisation structure and design, monitoring and control, and management system and performance associated with those arrangements. Since utility services are an important economic activity, considering the huge and long-term investments they are engaged, the following discussions will also touch on the kind of government-business relation existing in that particular sector, if not the economy as a whole.

In public services, electricity, transport and telecommunications facilities, etc., are basic necessities used simultaneously by a lot of people -- hence the name of public utilities, and can deeply affected their livelihood. To use E.S. Savas's typology (see Chapter I), the great bulk of them are toll services, i.e., it is possible to charge for them and to exclude nonpayers.[1] The provisions of the most frequently used and general mode of public utilities like -- in our city, buses, ferries, tramways, tunnels, and surely electric power are the duty and province of governments. Instead of direct provisions, in Hong Kong, these essential services which, as conceded by the Financial Secretary in 1982, are Government's responsibility to arrange for their availability,[2] are turned over to the private sector, or in some instances, to (public-private) joint-stock companies involving some Government shares, through franchises or franchise-like arrangements.

Franchise is an institution of granting privileges under which a private company is appointed by government to provide a particular service on a monopoly basis, at specified standards, tariffs and period of time usually extending to tens of years.[3] Franchises or its similar arrangements are particularly suitable for utility services, because the outstanding economic characteristics of those is that they operate at greatest efficiency as monopolies. There are in the main two reasons for that. First is the equipment used by utilities usually have a long life and require heavy investment; the award of an exclusive right of operation for a sufficiently long period might guarantee to the private vendor the investment return. Second is the economies of scale, i.e., the fall of unit costs with the increasing size of coverage of services.[4] For example, in the generation and transmission of electricity, in the United States, the unit costs of a 550-megawatt oil-fried generating station are estimated to be some 20 per cent less than the unit costs of a 225-megawatt station.[5] In the public transport sector, an areawide monopoly may further benefit from scale economies in the way of cross-subsidisation, i.e., the support of "weak" routes out of the surpluses earned on "strong" ones, and peak-hour services on off-peak ones.[6]

In Hong Kong the monopoly or quasi-monopoly arrangements employed by Government to privatise the utilities are these:

1. By franchises;
2. By licences;
3. By grant of right of contruction and operation; and
4. By contractual agreements.

Legally, franchises designate a full monopoly of service. Licences may or may not be monopolistic, depending on how the law provide for it. The last two do not specify a monopoly as such, but in actuality are given an exclusive right of operation. Table 4.1 presents a list of private utility companies awarded franchises or the like in chronological order by date of incorporation or commencement.[7]

Table 4.1 Private Utility Companies in Hong Kong.

Name of Company	Date of Incorporation/ Commencement	Mode of Monopoly
Hongkong Electric Co.,	24 Jan., 1889	By contractual agreement
Star Ferry Co., Ltd.	23 April, 1898	By franchise
Hongkong Tramways Co., Ltd.	7 Feb., 1902	By grant of right of construction & operation
Peak Tramways Co., Ltd.	18 Oct., 1905	By grant of right of construction & operation
China Light & Power Co., Ltd.	28 Dec., 1918	By contractual agreement
Hongkong Yaumati Ferry Co., Ltd. (HYF)	5 Nov., 1923	By franchise
*Hong Kong Telephone Co., Ltd.	24 Jan., 1925	By licence
Kowloon Motor Bus Co. (1933), Ltd. (KMB)	15 April, 1933	By franchise
China Motor Bus Co., Ltd. (CMB)	28 April, 1933	By franchise
*Cross-Harbour Tunnel Co., Ltd.	26 April, 1965	By franchise
*Cable & Wireless (HK) Ltd.	11 Sept., 1981	By licence
*Eastern Harbour Crossing Co., Ltd.	1 Aug., 1986	By franchise

* Public-private joint-stock companies.

The provision of utility services is often regarded as an activity that is too important to be left to the free play of economic markets, considering the public interest it affects. The basic philosophy of the Government has been that the operation of the utilities should work on commercial lines, with the Government providing a statutory framework for regulation and a degree of coordination.[8] The Secretary for Economic Services in 1982 had revealed that in its relations with the utility companies, the Government seeks to achieve the following five objectives:[9]

(i) to ensure that the consumers enjoy a reliable service in line with rising demand;

(ii) to ensure that the consumers pay a reasonable price for the service and do not suffer because of the monopoly or quasi-monopoly nature of the utility;

(iii) to ensure that the share-holders in a utility company obtain a return on their investment which is reasonable and which will encourage them to provide adequate further investment when required;

(iv) to ensure that the long-term financial well being of the company is assured, so that it can raise funds in the markets and so that it does not encounter financial difficulties that might put in jeopardy the company and the utility; and

(v) to achieve the above-mentioned objectives with the minimum of Government involvement in the operations of the companies so that they themselves are answerable directly to the consumers.

In a word, the role of the Government is to balance the interests of consumers and shareholders of utilities, acting as an intermediary between them.

By Franchises

Kowloon Motor Bus Co.(1933), Ltd. (KMB), &
China Motor Bus Co., Ltd. (CMB)

The Franchise

Before 1933 there were six small bus companies operated in Kowloon and Hong Kong Island without concessions. In 1933 they were merged to form the Kowloon Motor Bus Co. (1933), Ltd. (KMB) and China Motor Bus Co., Ltd. (CMB), upon an award of a licence (later changed to franchise) for a fifteen-year period, which they applied earlier, to each of them.[10]

The present franchises of the two bus companies were granted under the Public Omnibus Services Ordinance

1975 (re-named Public Bus Service Ordinance in 1982) with an initial period of ten years renewable at two-yearly intervals. The Ordinance (Cap. 230) states that "the Governor-in-Council may grant to any company registered under the Companies Ordinance the right to operate a public bus service in such routes as he specifies by order" and "a franchise may confer on the grantee the exclusive right to operate such a service " in these routes (Section 5(1) &(2)). The franchise "may be granted following a public tender or in such other manner as the Governor-in-Council thinks fit" (S. 5(3a)). In return the Ordinance empowers the Government to supervise the planning and operation of bus services in many respects. Section 9 has allowed for the appointment of two Government nominees to the Board of Directors of the two bus companies, who may not be removed from the Board except by the Governor and are entitled to participate at meeting of and have access to all material which is available to any other director, concerning the affairs of the companies. In 1988 these two Government-appointed directors were James So Yiu-cho, the Commissioner for Transport , and Alice Lai Siu Po-chun, Deputy Secretary for Transport for both KMB and CMB (The same officials also sat on the Board of the two ferry companies, see below).[11] But it has been revealed that the role as a director of CMB is hampered by the infrequent meetings of the full

Board and the partial delegation of Board authority to an Executive Committee consisting of a restricted number of directors excluding those appointed by the Governor.[12]

The two bus companies are also required to prepare a programme not later than 30 June each year of the operations of the companies for the followimg five years to be approved by the Commissioner for Transport (S. 12A). Failure without reasonable excuse to comply with such agreed programme shall mean that the company is incapable of maintaining a proper and efficient service. The programme must contain the following contents: a bus route development plan with an estimate of the number and types of buses required to achieve the plan; an estimate of the overall number of buses required to meet daily requirement; a plan for the scrapping of buses; a plan for the maintenance of vehicles; and a forecast of the financial implication of doing all these. Section 18 requires the companies to keep, to the satisfaction of the Commissioner, proper records, including records of vehicle maintenance and stores, to make these records available for inspection and to provide copies on request. The Commissioner or any person authorised by him is empowered under Section 21 to:

i) inspect premises and repair and maintenance facilities;

ii) inspect buses;

iii) require the carrying out of any repairs or maintenance he considers necessary within a specified time;

iv) require the companies to afford facilities for inspection of buses; and

v) require the companies to carry out in respect of all or any vehicle used by them in connection with their franchises any maintenance and serving in accordance with any programme.

Financially the companies have to produce to the Financial Secretary as he so requests books of account and information in relation to operations of the public bus services (S. 32). Besides, Section 22 enables the Governor-in-Council to impose financial penalties in respect of a failure by a bus company to comply with the conditions of its franchises. However such penalties have never been imposed, possibly partly because the bus company would be able to include any such financial penalty in its operating costs without reducing its permitted return under the Profit Control Scheme stipulated in the Ordinance.[13]

The Profit Control Scheme

The Governor-in-Council is empowered to determine the scale of fares (S. 13(1a)) on any specified route. Thus in 1984 the Transport Department had fixed the express bus fares for the Island Eastern Corridor due opening at $2.50, when ironically the bus Company wanted it set 20 cents cheaper, in an attempt to lower the competitive gap between buses on the Corridor and the Island Line of the MTR coming on stream the next year.[14] However the Commissioner for Transport may permit the bus companies to increase the fares subject to compliance to terms and conditions as laid down in the Profit Control Scheme which rules that the permitted return to the bus companies in an accounting year is an amount (after deduction of taxes) equal to the percentage per annum specified in the franchises of their average net fixed assets in that accounting year (S. 28(1)). In the Scheme of Control Agreement (SCA) entered into by the Government with the two bus companies respectively (also with the two power companies and Hong Kong Telephone, see below) effective from 1.9.75 to 31.8.87, this percentage was set at 16 per cent per annum for KMB and 15 per cent for CMB, safeguarded by using the Development Fund as profit equalisation funds. That is, profits in excess of the permitted return are credited to the Development Fund as a liability reserved for the acquisition of fixed assets (S. 28(3)); conversely, if the profit in any year is less than the permitted return, the balance of the Development Fund will be used from time to time to make up the shortfall (S. 28(4) & (5)). This arrangement apparently is to compromise the interests of the travelling public and the bus companies by imposing a ceiling to the profits as well as offering a guarantee to a "reasonable" return, to maintain the latter's financial viability for re-investment.

It must be pointed out that the practices on profit control are not the inventions of Hong Kong. They in fact are originated from the United States which has adopted the same device to regulate the franchised operators in the electricity and telephone utilities.[15] Referring to the American experience, the "maximum permitted return" provision, as noted by Gabriel Roth could "induce concessionaires to invest as much as possible in order to increase the rate base. Furthermore there is little incentive to reduce other costs, as the regulators tend to remunerate concession holders on a cost-plus basis".[16] It seems the same applies to Hong Kong and the SCA has turned out to the contrary a weapon of the two bus companies for seeking fare increases. Each opening of new routes and purchase of new buses can expand the value of the fixed assets and ultimately lead to a larger profit. Maria Tam Wai-chu, Chairman of the powerful Transport Advisory

Committee (TAC), commenting on the latest fare hike of KMB in January, 1989, has succinctly remarked, "What the TAC based is the Profit Control Scheme. Insofar as KMB can prove by figures that its profit is lower than the 16 per cent of permitted return, comparing with the net fixed assets, the TAC can do nothing but to approve the fare increase...The SCA is a commercial contract which cannot be altered except with the consent of both signatories".[17]

The TAC, composed in part of unofficial members appointed by the Governor and in part of officials including the Secretary for District Administration, Secretary for Economic Services, Commissioner of Police, Commissioner for Transport annd Director of Highways, is a non-statutory body function to advise the Governor-in-Council on all transport matters.[18] Like other advisory committees, it has been conferred no formal powers for decision-making, yet by convention, the Governor-in-Council will not accept any policy proposal on public transports not endorsed by the TAC.[19] In that sense, it functions very much like a regulatory commission which has jurisdiction over the transport utilities.[20] To change the fare structure, as a formality, the bus companies (other privately-run transport utilities being the same) must file their application to the Transport Department as well as the

TAC albeit the final decision rests with the Governor-in-Council.

Revocation of Franchise

Most franchise legislations will contain a provision for revocation. Section 23 of the Ordinance requires that if the Governor-in-Council considers that an emergency exists he may direct that the franchise of a grantee be suspended. The franchise will also be revoked if it appears to the Governor-in-Council that without good cause a grantee has failed to maintain a proper and efficient public bus service or to pay any financial penalty imposed. In the event of that, the Government may take possession of any property the grantee keeps in connection with its franchise which may be used by it or by its nominee in the operation of such bus service as the Commissioner for Transport thinks fit and the grantee will be entitled to compensation by the Government. Utilities are to serve the public; their services cannot stop even with the termination of the franchise. The world's practice therefore is to confer under that situation the Government with an option to acquire private utility properties by assuring a just compensation in return.[21] In recent years, it seems KMB has entertained a better reputation than CMB. Complaints received by the Transport Department on KMB has been notably lower than its counterpart.[22] In 1985 upon the expiry of the initial ten years of franchise, KMB was awarded another ten-year franchise extending to 1995. In contrast CMB was required to renew its franchise every two years after 1985.[23]

There was at least on one occasion that CMB had faced with a cessation of franchise. In January, 1984, an appalling bus tragedy in Happy Valley in which six people were killed and eight others injured, Hong Kong's worst bus accident in history, had turned the public spotlight on CMB.[24] Subsequently a working group was appointed by the TAC to look into the matter. The Report it published in April, 1985, disclosed that 50 per cent of CMB's fleet was eight years old on average, coupled with bad maintenance and poor management.[25] The Government had allegedly given a warning, the toughest ever of its kind, to CMB of a probable withdrawal of franchise. It was claimed that the Transport Department was considering a few alternatives to running the Island bus service, including nationalising CMB, or else asking KMB or the MTR to take over.[26] In the aftermath, the Government had held back using the franchise renewal as a lever against CMB. Instead a CMB-Transport Department Liaison Committee was established to implement the recommendations of the TAC Report in a bid to upgrade its maintenance and service standards.[27] After all, as pointed out by a commentator, "It is an unenviable predicament but the fact is that while commuters may not regard KMB as a paragon of virtue, it at least operates more efficiently and with far better discipline than CMB. If one can run at acceptable standards, why not the other".[28]

Hongkong Yaumati Ferry (HYF) & Star Ferry

The principal ferry services are operated under franchises by Hongkong Yaumati Ferry (HYF) and Star Ferry. HYF, established in 1923, is the largest local passenger shipping company in the world and operates on a fifteen-year franchise which next expires in 1999.[29] At the end of 1986, the Company has 76 vessels in operation and was running twelve cross-harbour passenger ferry services, two combined cross-harbour passenger/vehicular services, three cross-harbour vehicular-only ferry services and nine regular outlying district passenger services. During 1986 HYF carried 76.5 million passengers and 4.3 million vehicles.[30] Star Ferry was formed in 1898. It operates two cross-harbour services using 10 double-ended vessels which have carried 40.8 million passengers in 1986.[31]

The present franchises of the two ferry companies were granted under Section 6 of the Ferry Services Ordinance 1982 (Cap. 104) which conferred the exclusive right on the grantee to operate a ferry service between such points as are specified by the Governor-in-Council. The duration of the franchise is 15 years allowing renewal for the same length of time.

The terms and conditions governing the control and operation of the ferry franchises mostly resemble those of the bus companies. Two Government officials will sit on the Board of Directors. The Commissioner for Transport may specify the frequency of services and carrying capacity and types of vessels as well as the piers and berths used by the franchised services. Not later than 30 November of each year,the ferry companies must reach agreements with the Commissioner as regards to a plan relating to their operations for the next five years. The failure to comply with such a plan will be amounted to a breach of its franchise or a failure to maintain a proper and efficient service. The Director of Civil Engineering Services and Director of Marine are empowered to inspect at all reasonable times the premises, piers, equipment, ferry vessels used by the ferry companies in connection with the franchises. The Financial Secretary may also check and take away copies of any records and accounts relating to the franchise. And the Governor-in-Council can impose a financial penalty in the event of failure to comply with its franchise.

Last but not least, the franchises may be revoked should an emergency exist and they fail to maintain a proper and efficient service, and the Government may take possession of any property concerning the franchise by compensation. Besides the fares are all determined by the Governor-in-Council, however the ferry companies may apply in writing to it through the Commissioner for a revision of charges.

Different from the two franchised bus companies, the Government has not entered into any agreement of profit control with HYF and Star Ferry. This was probably deemed unnecessary in view of the drop in earnings and decline in patronage of routes and the competitive strength of ferry services, from 132 million passengers in 1980 to 84 million in 1985,[32] following the opening of the Cross-Harbour Tunnel in 1969 and the MTR network since 1980. To compete with the other modes of cross-harbour services, the two ferry companies can no longer boost profits through raising fares but by renovating their facilities and operation which is especially true for HYF.[33] After all it is worth mentioning that Star Ferry, charging at 70 cents on lower deck and $1 on top, has remained one of the cheapest form of transport in the territory.

Cross-Harbour Tunnel, Eastern Harbour Crossing & Tate's Cairn Tunnel

In Hong Kong, tunnel is an important utility, given its insular position and hilly topography. The Government has directly constructed and operated the Lion Rock Tunnel and Aberdeen Tunnel which are but minor projects in comparison with the Cross-Harbour Tunnel (CHT), Eastern Harbour Crossing (EHC) and Tate's Cairn Tunnel.

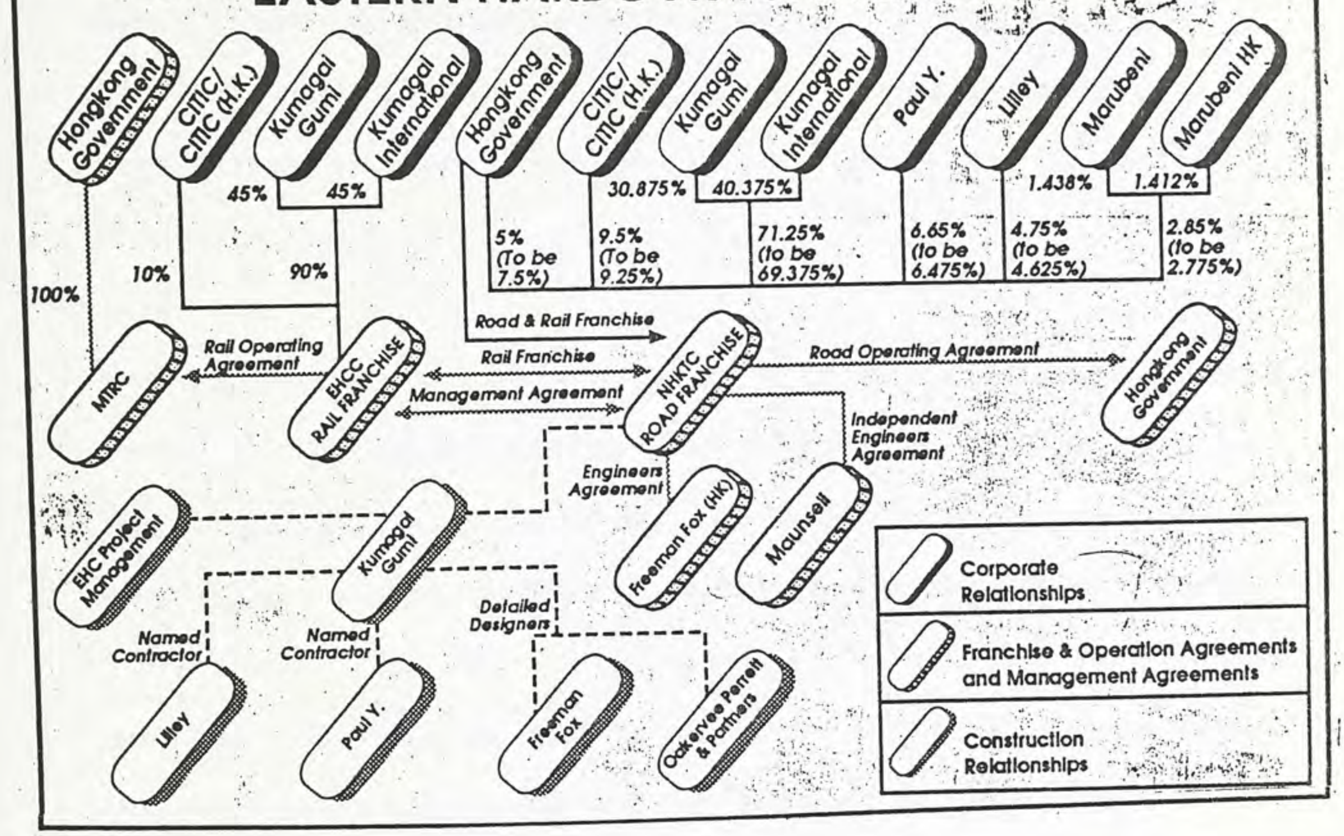
In 1965 the Legislative Council passed a resolution approving the grant of a franchise to Victoria City Development Co., Ltd., to construct and operate a vehicular tunnel between Wanchai and Hung Hom. Construction work started in 1969 with the incorporation of the Cross-Harbour Tunnel Co., Ltd. formed by an international consortium including Victoria City under the Cross-Harbour Tunnel Ordinance 1969 (Cap. 203).[34] The total construction cost was approximately $256 million. In 1972 the Tunnel was put into operation and now has become the busiest tunnel in the world, with an average of 120,000 vehicles passing the Tunnel per day.[35]

The construction of the Eastern Harbour Crossing basically followed the same model as the Cross-Harbour Tunnel. In 1985 the Governor-in-Council, from among the nine multi-national bids received, awarded the tender to finance, construct and operate the Tunnel to a consortium formed by investors from Japan, Britain, China and Hong Kong, under the name of the New Hong Kong Tunnel Co., Ltd. (NHKTC). These include Kumagai Gumi Co., Ltd., China International Trust & Investment Corporation (CITIC), Paul Y. Construction Co., Ltd. and Lilley Construction Ltd.[36] The Eastern Harbour Crossing, a second cross-harbour tunnel in Hong Kong, links Quarry Bay and Cha Kwo Ling in the Eastern part of Hong Kong. The whole project, comprising a series of road and rail tunnels, costs about $3.3 billion.[37] The rail part will be leased to the MTRC for the franchise period. NHKTC's share-holders, excluding the Government, pooled a total of $1.1 billion in equity financing, with the rest provided by bank credit facilities offered by 34 financial institutions.

This is one of the biggest loans of its type in history.[38] The Secretary for Transport explained that the construction of the Eastern Harbour Crossing was purely a private investment project which the Government would not participate in the way of funding nor providing guarantees.[39] It was said that the Government had been involving in too many public work projects. To turn over some of those to reliable private undertaking in terms of construction, financing and operation would not only curtail the public burden but also entrust to the community a viable service.[40]

A road franchise for 30 years (same as the Cross-Harbour Tunnel) and a rail franchise for 18 1/2 years, commencing at the start of construction, was separately granted under the Eastern Harbour Crossing Ordinance 1986 (Cap. 215). NHKTC which holds both franchises, has assigned the rail franchise to the Eastern Harbour Crossing Co., Ltd. (EHC) owned 90 per cent by Kumagai Gumi and 10 per cent by CITIC.[41] In accordance with the Ordinance, the Government shall hold 5 per cent of the shares contributed in form of land grants and others which will be increased to 7.5 per cent upon the opening of the Tate's Cairn Tunnel. Fig. 3 gives a graphical representation of the organisation of the Eastern Harbour Crossing project. In October, 1989, the Tunnel has been put into full operation.

The Tate's Cairn Tunnel, which links Siu Lek Yuen in Shatin and Diamond Hill in Kowloon, is to serve as an alternative route to the much congested Lion Rock Tunnel. In 1989 the Gammon-Nishimatsu consortium -- an Anglo-Japanese group made up of Nishimatsu Construction Co., Jardine Matheson & Co., Trafalgar House PLC., Fig 3: EASTERN HARBOUR TUNNEL TEAM



Source: SCMP, 9 September, 1989.

Standard Chartered Asia and C.Itoh & Co. -- in an public tender earned the 30-year franchise to construct and operate the Tunnel. It is the first land tunnel to be built and operated in Hong Kong by the private sector.[42]

The Secretary for Transport, Michael Leung Man-Kin, said that the consortium was selected partly because it proposed a $4 fare for cars, taxis and motorcycles and guaranteed that the tolls would be kept stable for the first five years of operation. The other factors the Government considered when awarding the projecat were the group's financial resources and management, its experience in construction and the ability to finish the work quickly.[43]

The construction of the Tate's Cairn Tunnel will cost about $2 billion and the four-kilometre Tunnel will be the longest in Hong Kong, doubling the length of the Aberdeen and the Cross-Harbour tunnels and being three times of that of the Lion Rock Tunnel.[44] The work started as soon as the Tate's Cairn Tunnel Ordinance granting the franchise was enacted by the Legislative Council and was scheduled to complete by the middle of 1991.[45]

The Franchise

Like the bus and ferry companies, in tunnel franchises, the Government may appoint two officials to the Board of Directors (S.6(2), CHT Ordinance, and S.11(2), EHC Ordinance). The Government is also entitled to holding a certain percentage of shares of the paid-up capital of the tunnel companies which are respectively 10 per cent or more for CHT and 5 per cent and 7.5 per cent upon the opening of the Tate's Cairn Tunnel for EHC (S.6(2), CHT Ordinance, and S.13(1a & 1b), EHC

Ordinance). At present the Government holds 25 per cent of the equity of CHT.[46] In return for the franchise, the Government will charge the companies a royalty based on the annual gross revenue or operating receipts of the tunnel. This is 12 1/2 per cent for CHT (S.14) and 2 1/2 per cent in the initial five years and 5 per cent thereafter for the Tate's Cairn Tunnel.[47] The bus and ferry franchises do not require any payment of royalty probably because tunnel operations are relatively speaking a much more profitable business (see below).

The Financial Secretary and Commissioner for Transport, for the purpose of ascertaining the royalty payable, are empowered to check all books of account and records kept by the companies as required (S.15 & 59(2), CHT Ordinance, and S.53(2), EHC Ordinance). The Commissioner may also enter the tunnel area at any time for inspection purposes (S.39, CHT Ordinance, and S.52, EHC Ordinance). The Director of Highways may by notice in writing, require the tunnel companies to effect such repairs and alternations to the tunnel structures as he considers necessary (S.48, CHT Ordinance, and S.41, EHC Ordinance). Any 1,000 or more persons, being either rate-payers or owners of motor vehicles, may appeal collectively by petition to the Governor-in-Council, should they be of opinion that the company has failed to maintain adequate, efficient or safe facilities for the passages of vehicles (S.57, CHT Ordinance).

Like the bus and ferry companies, provisions for revocation of franchises have been given special emphasis. It is ruled that if the Governor-in-Council is of the opinion that there has been a substantial failure of the Company to comply with any of the provisions of the Ordinance, there is in power for revocation of franchise by the Governor-in-Council. Should that happen, the assets of the Company shall vest in the Government which will compensate same with a sum agreed upon between them. Failing such agreement may be determined by arbitration under the Arbitration Ordinance (S.51-53, CHT Ordinance, and S.69-71, EHC Ordinance).

The following two provisions however are not present in the bus and ferry franchises. The Governor-in-Council may, if he is satisfied that it is necessary to do so in the interest of public security, order that the Government shall take over the operation of the tunnel together with the property of the company as is necessary and continue such operation until the Governor-in-Council otherwise orders. Again the company shall be compensated for such take-over by the Government by a sum to be agreed upon (S.38, CHT

Ordinance). And most important of all, it must be noted that on expiration of the franchise period, no compensation will be payable by the Government to the company, except the depreciated value of any machinery, equipment or plant forming part of the assets purchased by the company, with the agreement of the Financial Secretary within the five years next preceding the expiration of the period of the grant and owned by the company on such expiration (S.54, CHT Ordinance, and S.72, EHC Ordinance). In other words, the tunnel will belong to the Government upon the expiration of the franchise period.

Not surprisely, as conceded by the Secretary for Transport, the Government is much in favour of turning public projects like tunnels to the private sector, for it can finally get hold of the tunnel without spending a penny.[48] For the bidders in a tunnel tender, the investment still looks attractive despite the presence of that provision, bearing in mind that tunnel operation, in the Hong Kong context, is an extremely lucrative busines with extraordinarily high rate of return, let alone the fact that the franchise time, extending to a period of thirty years, is sufficiently long to payoff the investment.

By one count, it has been reckoned that for each dollar invested in the CHT, the return would be as high as $0.6, i.e., 60 per cent, topping all other utilities.[49] This high rate of return explains why the Government has repeatedly rejected varying the tolls for CHT which, by statute, has a power to determine (S.40-44, CHT Ordinance, and S.55-59, EHC Ordinance). In 1984 to curb the use of the much congested Tunnel, the Government has resorted to imposing a passage tax by its own for all vehicles except public transports instead of approving the Company's application made earlier for an increase in tolls.[50] Obviously the Government's approach is that the Tunnel profit has been staying too high to justify any change of tolls albeit the Company has not raised same since its opening 17 years ago.[51]

By Licences

Hong Kong Telephone & Cable & Wireless

In the early years of Hong Kong, the Government operated directly most of the telephone and telegraphic services through the Post Office formed in 1841. This sector was "completely" privatised with the hand over of the telegraphic services to Cable & Wireless Ltd. in 1948 and telephone services to Hong Kong Telephone Co., Ltd. in 1951.[52] In February, 1988 the two companies were merged to form the Hong Kong Telecommunications Ltd. Cable & Wireless of Britain owns 80 per cent of its shares and the Hong Kong Government, 10.1 per cent, the balance being left to the stock market. Hong Kong Telephone became a wholly-owned subsidiary of Hong Kong Telecommunications, and Cable & Wirless of Hong Kong, its associated company which is also 40 per cent owned by Cable & Wireless (Far East) Ltd.[53]

So to speak, the two telephone and telegraphic utilities are joint-ventures of Cable & Wireless of Britain and the Government. They operate under licences granted to them respectively under the Telecommunication Ordinance (Cap. 106) and in addition the Telephone Ordinance for Hong Kong Telephone. The Telecommunication Ordinance specifies that a licence granted by the Governor-in-Council shall be valid for such period and shall be subject to the payment of such fee, royalty or other charge whatsoever shall be subject to such conditions as the Governor-in-Council may specify and, where the Governor-in-Council considers it desirable in the public interest, may confer on the grantee to whom it is granted an exclusive right to maintain any service to the public in connexion with which the licence is granted (S.34).

The present licence of Hong Kong Telephone is valid for

20 years commencing 1975 and 25 years for Cable & Wireless from 1981.[54] Both licences granted them the sole right to supply and operate public telephonic communication within Hong Kong, including truck line telephonic communication for communicating with places outside Hong Kong for Hong Kong Telephone, and truck line communication by means of submarine cable from Hong Kong to places outside Hong Kong for Cable & Wirless.

The regulation and control governing the operation of these two licenced services are similar to those of the franchised business. Above all the Government may appoint two public officers to their Board of Directors. In 1988 they were Yeung Kai-yin, the Director of Industry and Roger William Candler, Deputy Secretary for Monetary Affairs.[55] The Telephone Ordinance requires that the company shall at all times during the continuance of the concession provide and maintain to the satisfaction of the Postmaster General a good, efficient and continuous service of public telephonic communication with modern appliances including all reasonable modern inventions. It will afford to the Postmaster General all facilities for inspection and testing of its plants, works, apparatus, instruments, fittings and other material thereon as well as such information relative to the conduct of the

Company's businsess if he so requests. The Company shall permit the Director of Accounting Services to inspect and take copies of the books of account relating to the licenced service.

The Government is empowered to take over and purchase undertakings of the Company in certain events such as failing to observe its obligations under the Ordinance, going into liquidation or ceasing to carry on business. The price to be paid by the Government shall be determined by arbitration if the same cannot be agreed upon by the parties. However if upon the expiration of the concession, no arrangements are made for the continuance of supply by the Company or if the Government does not elect to take over and purchase the Company's undertakings, the Government may, on the expiration of the concession, require the Company to remove all works erected or made by the Company in connexion with the licence.

On the financial side, the Company is entitled to charge its subscribers fees not exceeding those specified in the Schedule in the Ordinance and is allowed to amend same by resolution of the Legislative Council. Failing agreement of such revision between the parties shall be referred to arbitration. In 1975 after severe criticism from the public on a rise of telephone charges, the Government entered into a Scheme of Control Agreement for an effective period of 1.1.76 - 30.6.95 with the Company which rules that its maximum permitted return will not exceed 16 per cent of Shareholders' Funds and profits after tax for any year in excess of the maximum permitted return will be apportioned 80 per cent to the Development Fund and 20 per cent to Shareholders' Funds which will be issued as bonus shares at an appropriate time.[56] Like that of the bus fanchises, the Development Fund is to serve a profit equalisation fund out of which no transfer will be made except for the purpose of maintaining or reducing rental charges.[57]

In 1987 the number of telephone per 100 people has reached 46.96, i.e., almost two persons will possess a telephone.[58] And within a decade, the number of telephone subscribers has doubled from 994,000 in 1977 to 1,975,000 in 1987.[59] This was attributed in part by the rates which have been kept at a "reasonable" range so that more and more people can afford to own a telephone.

By Grant of Right of Construction & Operation

<u>Hongkong Tramways & Peak Tramways</u>

The Tramway Ordinance passed in 1901 resulted in the formation of the Hongkong Tramway Electric Co., Ltd. (subsequently re-named the Hongkong Tramways Co., Ltd.) which granted it the right to consturct and run the tramway as delineated on a plan deposited with the Director of Highways and approved by the Governor-in-Council (S.3). In similar fashion, the Peak Tramway Ordinance enacted in 1883 conferred the Hong Kong High Level Tramways Co. (re-named Peak Tramways Co., Ltd. in 1905) the right to construct and operate a tramway commencing from the southwest boundary of Inland Lot 7977 and terminating on the boundary of Rural Building Lots 768 and 858 in accordance with the plan deposited with the Director of Land (S.2A & 3).

Previously the grant of right of operation for Hongkong Tramways extended on a short-term five-yearly period. The Government let it decide on commercial grounds some time in 1986-87 whether to continue operations in competition with the MTR Island Line due to open that time and the improved roads.[60] The Company, now owned by the Wharf (Holdings) Ltd. of Y.K. Pao, subsequently elected to go on with the business. A major refurbishment programme was then inaugurated to boost its appeal.[61] The fares have remained unchanged for many years at as low as 60 cents for adults, 30 cents for students and 20 cents for children, although any alteration of the fares is subject to the consent of the Governor-in-Council (S.51, Tramway Ordinance).

In contrast the Peak Tramways which runs on a ten-year period of right of operation, was deregulated, by an amendment of the Ordinance in 1986, to fix its fares freely.[62] The Government may take over and purchase the two tramways at a fair value in case the company is insolvent, so that it is unable to maintain the service with advantage to the public or discontinues the working of the tramways for the space of six months not being occasioned by circumstances beyond the control of the company (S.28-30, Tramway Ordinance, and S.9-11, Peak Tramway Ordinance). The companies are also required in times of emergency to give exclusive use of the tramways to the military authorities for the transporation of personnel and materials by an order of the Governor-in-Council (S.44, Tramway Ordinance, and S.19, Peak Tramway Ordinance.)

By Contractual Agreements

China Light & Hongkong Electric

Electric supply as mentioned is an essential public service which is most economically provided to customers in a geographical area by a monopoly. The highly capital-intensive nature of electricity production and distribution, together with the highly beneficial economies of scale, makes provision of the service on a competitive basis impractical and unrealistic. Hong Kong has two electric monopolies, although some minor enterprises such as village cooperatives produce electricity for certain remote locations in the New Territories, serving separate geographical areas. Hong Kong Island and the neighbouring islands of Ap Lei Chau and Lamma are supplied with electricity by the Hongkong Electric Co., Ltd., whereas Kowloon and the New Territories -- including Lantau, Cheung Chau, and a number of other outlying islands -- receive their supply from China Light & Power Co., Ltd.[63]

Hongkong Electric is one of the oldest power companies in the world, having been founded in 1889.[64] At the end of 1986, the Company had 387,340 consumers, of whom 314,600 were classified as being domestic users. The maximum demand for the year was 1,259 MW and sales of electricity amounted to 17,346 million megajoules.[65] The Company is now a wholly-owned subsidiary of the Hongkong Electric Holdings Ltd. It opened its first station in Wan Chai, and later moved to North Point in 1921. The North Point Station was finally decommissioned in 1980. The Company's generating activities are at present based on Ap Lei Chau and Lamma.[66]

China Light was formed in 1901, first to provide Kowloon with electric lighting. Its first station was commissioned in 1903 at Hung Hom and in 1920 added another at Hok Un. In 1931 the supply was extended to the New Territories.[67] Closely tied with the rapid industrialisation of the territory especially in the Kowloon side, major expansion of China Light took place in the post-war years.[68] At that time the demand for electricity was increasing at such a rate that the Company could not keep pace. Capital was unavailable for the major plant expansion required and the Government frowned on financing expansion out of its own revenue, although there was much talk of nationalising the industry.[69]

At the height of the crisis, Esso Standard Eastern, Inc., of America and China Light reached an investment agreement which led to the formation in 1964 the Peninsula Electric Power Co., Ltd. (PEPCO). Esso, through a subsidiary, Eastern Energy, Ltd., has a 60 per cent interest and China Light 40 per cent in PEPCO.[70] Two other companies with shareholdings being identical to those for PEPCO, were formed afterwards: the Kowloon Electricity Supply Co., Ltd. (KESCO) established in 1978 which owns the Castle Peak 'A' Station and some facitlites at Hok Un; and the Castle Peak Power Co., Ltd. (CAPCO) in 1981 which owns the Castle Peak 'B' Station.[71] These companies are solely power generating enterprises which sell all their outputs to China Light for transmission and distribution.

By 1986 China Light supplies electricity to more than 1,250,000 consumers. The maximum demand for the year reached 3,355 MW while sales amounted to 50,582 million megajoules, half of those going to industrial and commercial customers.[72] The history of China Light was claimed to have set a good example for solving power-shortage problems in many cities of the world. As a manager of the Company put it in 1970, "Electricity [in Hong Kong] has been transformed from a luxury commodity into a necessity. Electrical power is becoming available to even the most remote villages".[73]

The two power companies do not operate on a franchise, licence nor a right granted by statute, but the Schemes of Control Agreements (SCAs). As noted by Ernst & Whinney, a power consultant, "In Hong Kong, the SCA, together with their administration, define the free market "umbrella" under which the electric utilities operate. The SCA is a contractual agreement between the

Government and the utilities which specifies a limited set of financial and other terms and conditions of utility operation."[74] In 1964 after the Government had declined to nationalise power supply and the formation of PEPCO, it signed the SCA with China Light which was subsequently amended in 1978 to form its present version.[75] In the drawing up of the SCAs which is effective for a period of 1.10.78 - 30.9.93 for China Light and 1.1.79 - 31.12.93 for Hongkong Electric, the Government recognises that the companies and their shareholders are entitled to earn a return which is reasonable in relation to the risks involved and capital invested in and retained in the business, and in return, the Government has to be assured that service to the consuming public continues to be adequate to meet demand, to be efficient and of high quality, and is provided at the lowest cost which is reasonable in the light of financial and other considerations.[76] The main features of the arrangements in the SCAs are as follows:[77]

1. The Schemes shall be applicable to the electricity-related activities of the companies;
2. Before implementation, adjustments in tariff schedule shall be subject to review by and in concultation with the Government and approval by the Executive Council;
3. The annual permitted return to be the sum of:

- 13.5 per cent of the average net fixed assets; and
- a further 1.5 per cent on any average net fixed assets financed by shareholders' investments after 30 September, 1978, as defined in the Scheme.

4. Any difference between the permitted return and the profit for the SCA to be transferred to or from a Development Fund;
5. The main purpose of the Development Fund is to assist in the acquisition of fixed assets and it is not part of distributable shareholders' funds.
6. The following to be deducted from the permitted return:
   - a charge of 8 per cent per annum on the average balance of the Development Fund, such charge to be credited to a rate reduction reserve to be applied as rebates to customers; and
   - interest payable, up to maximum of 8 per cent per annum, on long-term financing.
7. Financing reviews will be conducted jointly by the Government and the companies. For each financing review, the companies will make available their revenue and capital budgets, as well as financial models covering the preceding,

the current and at least four subsequent years. The results of each financing review will be put to the Executive Council for approval.

8. An auditing review will be conducted jointly by the Government and the companies in November or December of each year when all necessary documents are available.

The SCAs were kept confidential for many years. In late 1982 in an outcry against a tariff increase of the two power companies, the public, joint with a number of Legislative Councillors, demanded the disclosure of the documents to remove the air of mystery that had surrounded them.[78] The Government finally decided, after securing the consent of the companies concerned, to publish all the SCAs including those for the bus and telephone utilities that we have dwelt on above.[79] But the publication had not helped ease the public doubts and apprehension on the increase of electricity charges to be effective from 1 January, 1983.[80]

Allen Lee, an outspoken Legislative Councillor representing at the time the Hong Kong Federation of Industries, maintained that "there are some people in Hong Kong, but very few, who believe that permitted return of 15 per cent based on average net fixed assets is to limit the power companies' profitability. On the other hand, there are many... who believe it is a guaranteed profit regardless of economic environment".[81] To illustrate his point by figures, he said: "In the case of China Light, net return increased from $238 million in 1978 to $919 million in 1982. On yearly basis, the increase of net return percentage from 1978 to 1982 is 34 per cent, 50 per cent, 45 per cent, and 31 per cent respectively. During the same period, the average net fixed assets increased from $1,863 million to $9,290 million."[82] He therefore on behalf of the Federation of Hong Kong Industires, urged the Government to set up a tripartite commission which consists of Government officials, representatives from the power companies and the general public to review the SCA to ensure that the shareholders' interests are accounted for and the consumers' interests are also protected.[83]

W.C.L. Brown, a prominent banker and also a Legislative Councillor, however presented another view, apparently backing up the shareholders' interests. He professed that "whichever way one looks at it [the SCA], any fairminded person must surely agree that in Hong Kong we enjoy standards of service from our utilities which compare favourably with most other territories both in terms of reliability and in cost...If we take the October 1982 figures, their charges compared favourably with seven neighbouring areas (Korea, Singapore, Japan, Malaysia, Philippines, Thailand and Taiwan). The average electricity cost per unit for commercial consumers was lower in Hong Kong than in all of these countries, the exception being Taiwan where Government subsidy is involved. In the case of domestic consumers, it was lower in all countries except Thailand and Taiwan"[84]

Brown further argued that the claim levelled against the power companies was not justified also in terms of financing: "The duration of the Schemes extends until 1993 and such a period is necessary to provide the continuity of essential for the planning and financing of major projects. Substantial international loans totalling many billions of dollars have been arranged on the security of the Schemes in their present form. These loans were advanced only after the lenders had satisfied themselves that their security was assured through the SCA."[85]

Moreover he did not think the SCA should be monitored by an independent body, for "in the light of the review and control functions performed by Government, the establishment of any public monitoring of electricity utilities would be a duplication of what is already being done and would be of doubtful benefit to consumers."[86]

John Bremridge, the then Financial Secretary, in defending the SCAs and Government's utility policies, seemed to share his conviction with Brown's. He was of the opinion that "on the whole in Hong Kong we have good utility services at prices at least comparable with others in Asia."[87] "In fact in 1959 the Mould Commission recommended the establishment of an authority to generate, transmit and distribute electricity. This involved nationalisation of the two power companies. Lucky Hong Kong to avoid such a fate. If a take-over of the two companies was undertaken today, my exceedinly rough calculations show that fair compensation of about $20 billion would be needed. With 10 per cent Government bonds and a ten-year sinking fund less earnings the annual cost would be at least $2 billion, and the burden of management would be transferred to Government. At present in Hong Kong our annual corporate profits tax yields about $6.8 billion per year. Would those who believe in nationalisation accept the need for corporate profits tax to be increased by 29 per cent?...Refusal to allow a 10 per cent across the board increase in electricity charges could involve Government in paying a subsidy to the companies of $600 million per year. Salarie tax this year will yield about $2.2 billion. How do you feel about a 30 per cent increase?"[88] As to the establishment of a standing commission to regulate the two power companies, the Financial Secretary did not support the proposal as he contended, "It must be clear where management responsibility lies. And it can never lie with a committee. I totally reject any concept of a monitoring and interfering committee."[89]

In recent period, the investment strategy of China Light has been concentrating on developing the much cheaper coal-fired generation in Castle 'A' and 'B' stations.[90] (Thus the first coal-fired generator installed at 'A' Station can save as much as $1 million per day over oil usage.)[91] As a result, according to the saying of China Light, electricity charges have been maintained at a stable level (50 per cent of electric rates arising from fuel cost) [92] since 1985, which actually represent a fall in real terms when inflation is taken into account.[93] True or false, it is however certain that the substitution of coal for oil in electricity generation, which involves huge capital costs, is largely attributed to the "permitted return" provision of the SCAs.

Summary

Franchises, as we demonstrated above, are in fact very much like contracting. In a franchise or its variant, some certain kind of governmental activities and functions are handed over to private enterprises under a particular set of terms and conditons as stipulated in the franchise contracts. Franchises differ from contracting not in their nature, but in the scope. It can be seen that comparatively speaking, franchises are large-scale contracts, involving much bigger investments and longer span of time. Besides they are a monopolistic arrangement which is best suited for delivering utility services.

In Hong Kong most, if not all, utilities have been turned over to either public corporations (see Chapter II), or private concerns including public-private joint-stock companies through franChise arrangements. The only exception being water supply which is still under Government control as it involves vast areas of land that allegedly have made privatisation difficult.[94]

As remarked by A.H. Hanson, "The privatisation of utilities assumes the existence of entrepreneurs willing and able to undertake the service on behalf of the municipality. If it is to work properly, it also demands that the municipality itself shall have the competence to exercise the necessary supervision. These two conditions are not always present."[95] In the less developed countries (LDCs), the public sector has always been considered to be more well-established than private enterprises, in terms of the pool of human and factor resources.[96] It is widely recognised that some form of public ownership and operation of the utilities is desirable in those countries as the private sector is lacking both the financial strength and administrative competence to provide an economical and efficient service.[97]

Hong Kong has long developed a strong and mature private sector which renders this problem obsolete. At present most utility companies are in the hands of a few tycoons of the territory, like Y.K. Pao who runs Star Ferry, Cross-Harbour Tunnel and Hongkong Tramways through the Wharf (Holding) Ltd., Li Ka Shing (Hongkong Electric), Lawrence Kadoorie (China Light and Peak Tramways); or some reputable multi-national corporations, such as Kumagai Gumi of Japan (Eastern Harbour Crossing) and Cable & Wireless of Britain (Hong Kong Telephone and Cable & Wireless (HK) Ltd). As a monetary centre of the world, the problem of financing for utility projects is almost non-existent.

Many of the private utility companies in the LDCs went bankrupt for one reason or another, and the alternative was always a destined government take-over.[98] Until lately, this has never happened to Hong Kong, not even in HYF and CMB, both of which have been run by the same parties, i.e., the Lau's and Ngan's families, since their start of operation more than half a century ago. As the former Financial Secretary, John Bremridge, puts it, "We thus encourage private enterprise. Most serves us well. Some arguably does not. But forced sequestration -- say nationalisation -- is wholly alien to us."[99]

In the regulation of utilities, the Government aims to strike a balance between the interests of the shareholders and consumers. But it tends to have laid more emphasis on upkeeping the financial viability of utility companies for long-term investments. The more direct form of monitoring by regulatory agencies with public elements and armed with extensive authorities prevailing in America and other countries, has not been adopted. (The Transport Advisory Committee is still not a regulatory commission in a formal sense, see above). None the less, Hong Kong's utilities would admittedly compare favourably with most other territories, as Bremridge again cynically puts it, "Our bus companies are not everyone's friends. But at least they provide reasonably sufficient services at a price well below those found in Singapore. Do people really believe that

Government ownership could do better? Our telephone company, though regularly execrated, is probably the cheapest and best in the world. Our electricity companies, though subject to constant attack, offer electricity cheaper than most in Asia, a reliable supply, efficient long-term planning and competent management."[100]

CHAPTER V

CONCLUSION & IMPLICATIONS

By modes of organisations, the privatised sector in Hong Kong consists of public corporations, subvented organisations, and private companies. Public functions are turned over to these structures through the institutional arrangements of corporatisation, subsidies, voucher arrangements, contracting, franchises, and joint-stock companies. Unilke other places, the Government has operated none of the private goods, like oil, sugar, iron and steel, etc.; until lately there is not a single case of asset sales (the KCRC would be one if it was listed on the Hong Kong Stock Exchange) which are popularly associated with the privatisation of that kind of commodities, in Hong Kong.[1] Our study shows that each of the above methods of privatisation tends to have its own domain of service choice. Thus contracting can best apply to services which are not large in scope and have specific outputs; as opposed to franchises which are suited for services like utilities that require a monopoly to support their large-scale production and long-term investment. On the other hand, subsidies are a good means for the privatisation of existing services discharged by the private non-profit or voluntary organisations, which the public authorities otherwise want to provide; and corporatisation, in the Hong Kong context, is proven a suitable device for hiving-off certain public bureaus, with the Government retaining the full ownership of the operation.

Regardless the mode of organisation they take, the undertakings found in the privatised sector are quasi-public and quasi-private in nature, that is, they are "hybrid" organisations which are created out of a mix of private business and governmental elements. Thus in both public corporations and subvented organisations, the Government finances their operations, but the management and production functions are taken over by private parties. The "private" companies in that sector, chiefly the contractors and franchised operators, also exhibit a high degree of "publicness", considering, among other things, the restrictions imposed on their property rights. From a legal point of view, an owner shall enjoy the occupation, use, profit and disposition over his own property.[2] The companies engaging in Government contracting or operating under franchise arrangements are both denied the freedom of making profits which are controlled by Government. And for the latter, the right of disposition is deprived as well, because the franchised operator cannot freely transfer his company's assets to other people but only the Government in case the franchise is revoked (see

Chapter IV).

The "publicness" of all the three modes of organisations for privatisation is also denoted by the governmental control and regulation they are specially subject to, given the public interest with which they all are involved. In comparing the formal design, it is obvious that the control casted on public corporations is most minimal. The other end of the spectrum is private utility companies. Thus in respect of fee charging, the former can fix fares at their own will but the latter cannot. The fact that public corporations are wholly-owned by Government whereas utility companies are dominated by private shareholders may account for the difference in treatment. But one feature in common to them in the control mechanism is the preponderance of the Governor. As pointed out by Peter N.S. Lee, under the political system of Hong Kong which has little checks and balance, the Governor could become a "small dictator", based on the extensive authorities he is given.[3] All final decisions concerning the operation such as setting the fares, appointment of board members and Government directors and revocation of franchises, are vested in him (often in the name of the Governor-in-Council) rather than the respective policy secretaries, i.e., the ministers in the Western sense. Moreover under the doctrine of "administrative absolutism",[4] the Government would tend to retain steadfastly a direct control of all public affairs. This explains the rejection of formal democratic control or public monitoring of any kind including the formation of statutory regulatory commissions in the supervision of the privatised services. In short, the present arrangement is to put the emphasis on administrative control through heavy legislations which set out in detail all the functions and powers to which the Government is entitled and the duties and responsibilities the privatised sector is obliged. The paucity or absence of any public and legislative control might induce and aggravate people's discontent on the privatised services as can be shown by the proliferation of disputes between the two in recent years.

As explicated in the Introduction, privatisation has long been existing in Hong Kong since its founding in 1841, with the persistence of a non-interventionist approach and adoption of conservative fiscal and budgetary polices by the Government. It however gained further momentum in the 1980s. It is worth noting that besides the possible influences of international trends and other political considerations, this might also be attributable to the change of economic and social base in Hong Kong over the last two decades. During 1970-87, riding on the success of the post-war industrialisation in the earlier period, Hong Kong's economy in terms of increase of GDP and GDP per capita grew at a rate of 8.8 per cent and 6.6 per cent respectively, which are much higher than most other economies in the world. By 1982 Hong Kong was second after Japan in GDP per capita in Asia.[5] The rapid economic growth also brought about significant improvement in the general living standard of people. A social corollary to this is the rise of the middle classs, the professional and managerial strata of society.[6] The economic logic of privatisation is based on the greater efficiency and more rational allocation of resources by virtue of the market forces. The emphasis on affordability, to disregard the distributive justice and equity concerns, may cater to the needs and aspirations of the middle class and those whose living is rapidly improving, who look for a better standard of say, medical services and housing. Thus there has been existing for many years the call for increasing the number of "B" class beds in the public and subvented hospitals by that sector of the community, and the endless demand for the Home Ownership flats with better amenities shown by the long waiting list also manifests the social base for a privatised public policy.[7]

The other aspect of economic growth is the nuture of a mature private sector in terms of entrepeneurship and capital formation. So as told by Colin Sankey, the Principal Assistant Financial Secretary, one of the considerations which is fundamental, of the Government in the privatisation drive in recent years is related with the development of the market. He held that "The current condition of operation of the commercial sector has reached such a stage that is capable of absorbing some jobs which are not necessarily done by the Government......The private sector had matured sufficiently for the Government to allow it to operate public services more competitively."[8] To illustrate how the quality of the private sector affects the performance of privatisation, we have contrasted, *inter alia*, the success of the Hong Kong utilities operated by private companies with the failure of those counterparts in the LDCs (see Chapter IV). Suffice it to say that privatisation, as a "development strategy", seems to be a viable option most likely for a more advanced society or an industrial economy.

We thus witness in privatisation the "withering away" or "rolling back" of the state, the modernising agent for many late industrialisers,[9] not in the Leninist sense, but in the way that more and more state functions and activities are assigned to bodies formally or informally separated from the state.

Patrick Dunleavy suggests that government will turn to a "control agency" if this trend goes on. And the upper echelon of the state bureaucracy will welcome it, for they would prefer working in a staff agency concentrating on planning and monitoring to line agencies which have to execute the policies and face public pressure.[10] Indeed "contract city", a name given to American municipal governments which have contracted out almost the whole range of public services to external parties, has become increasingly popular.[11] A similar suggestion along this line is what raised by Steven N.S. Cheung. In trying to chart out the future institutions of Hong Kong after 1997, he brought up the idea of delegating all governmental functions to an independent statutory body named the "Hong Kong, Incorporated".[12] Under the China factor, this most extreme version of the development of privatisation will certainly not happen to Hong Kong, although the Basic Law, as declared in its final draft, will to the contrary retain "the low tax policy previously pursued in Hong Kong" and "the principle of keeping expenditure within the limits of revenues in drawing up its budget", that is, "to strive for a fiscal balance, avoid deficits and ensure that the budget is commensurate with the growth rate of its gross domestic product",[13] which are exactly the policies that have encouraged the private provisions of public services and goods in the past history of Hong Kong.

Notes to Chapter I

1. According to Steve H. Hanke, the word, "privatisation", only appeared in the Webster's New Collegiate Dictionary as late as 1983. See Hanke, "Privatisation: Theory, Evidence, and Implementation", in C. Lowell Harriss (ed.), *Control of Federal Spending*, New York: Academy of Political Science, 1985, p. 101.

2. Ronald C. Moe, "Exploring the Limits of Privatisation", *Public Administration Review*, Nov./Dec., 1987, p. 453.

3. See Peter J. Curwen, *Public Enterprise: A Modern Approach*, Brighton, Sussez: Harvester, 1986, p. 172; Steve H. Hanke, *Op. Cit.*

4. For a summary of the privatisation drive appeared in Britain and other countries in the early 1980s, see *The Economists*, 21 December, 1985, p. 71.

5. For a discussion and criticism of New Conservatism and the ideological dimension of privatisation, see *Welfare Digest*, Issue No. 154, March, 1987; Alan Walker, "The Political Economy of Privatisation", in Julian Le Grand and Ray Robinson (eds.), *Privatisation and the Welfare State*, London: George Allen & Unwin, 1984, p. 28.

6. For a discussion of the welfare state, see *the Meeting Point Review*, Issue No. 2, September, 1985, (in Chinese).

7. See *Welfare Digest*, Issue No. 131, April, 1985, p. 1; Nelson Chow, "The Past and Future Development of Social Welfare in Hong Kong", in Joseph Y.S. Cheng (ed.), *Hong Kong in Transition*, Hong Kong: O.U.P., 1986, p. 403.

8. See Alvin Rabushka, *The New China: Comparative Economic Development in Mainland China, Taiwan and Hong Kong*, Boulder & London: Westview Press, 1987, pp. 145-146.

9. *Ibid.*, p. 155.

10. *Ibid.*, p. 155; Also see Rabushka, *Value for Money: The Hong Kong Budgetary Process*, Stanford, Calif.: Hoover Institution, 1976, p. 9.

11. Rabushka, *Value for Money: The Hong Kong Budgetary Process*, *Ibid.*, p. 4; Rabushka, *Hong Kong: A Study in Economic Freedom*, Chicago: University of Chicago Press, 1979, p. 31-31.

12. Lau Siu-Kai,and Kuan Hsin-chi, *The Ethos of the Hong Kong Chinese*, Hong Kong: Chinese University Press, 1988, p. 24.

13. Alvin Rabushka, *Hong Kong: A Study in Economic Freedom*, Chicago: University of Chicago Press, 1979, p. 65.

14. *Ibid*.

15. *Ibid*., p. 32.

16. *Hong Kong Hansard*, 1961, p. 47.

17. *Ibid*., 1966, p. 216.

18. For a discussion of "positive non-interventionism" which is a reflection of neoclassical economic thinking, see Hsueh Tien-tung, "Transformation of the Economic Philosophy of the Hong Kong Government -- From Classical Economics to Neoclassical Economics", *Hong Kong Economic Journal Monthly*, Vol. 9, No. 11, pp. 38-45 (in Chinese); Y.W. Sung, "The Hong Kong Development Model and Its Future Evolution: Neoclassical Economics in a Chinese Society", Paper for the Presentation at an International Symposium, "Economic Development in Chinese Societies: Model and Experiences", to be held in Hong Kong December 18-20, 1986.

19. Philip Haddon-Cave,"Hong Kong's Economic Growth: The Next Stage", p. 48.

20. Philip Haddon-Cave, "Can Free Enterprise Survive?", p. 1.

21. *Hong Kong Hansard*, 24 November, 1982, p. 288.

22. *Ibid*., 30 April, 1986, p. 1090.

23. Rabushka, 1979, *Op. Cit*., p. 31.

24. For a detailed discussion of the economic and financial policies of the Government, see Y.W. Sung, "Fiscal and Economic Policies in Hong Kong", in Joseph Y.S. Cheng (ed.), *Hong Kong in Transition*, Hong Kong: O.U.P., 1986, pp. 120-141.

25. *Ibid*., p. 126.

26. See *Hong Kong Hansard*, 30 April, 1986, pp. 1090-91.

27. See Cheung Bing-leung, "Introduction of the Hong Kong Public Sector Reform and Its Political Implications", *Ming Pao Monthly*, August, 1989, pp. 45-48, (in Chinese). Also see *Financial Management Reforms in Hong Kong*, Talk by John Yaxley, The

Deputy Financial Secretary to the Hong Kong Branch of the International Fiscal Association, 14 November, 1988.

28. These views were frequently seen in the local press, for example, see Cheung Bing-leung, "The Political Considerations and Political Significance Underlying the Establishment of Public Corporations by the Hong Kong Government", *Ming Pao Monthly*, February, 1988, pp. 37.41, (in Chinese); *Pai Shing Semi-Monthly*, No. 177, 1 October, 1988, pp. 36-37 and No. 167, 1 May, 1985, pp. 12-16.

29. Nicholas Henry, *Public Administration and Public Affairs*, Englewood Cliffs, N.J.: Prentice-Hall, 1988, revised edition, p. 316.

30. Ronald C. Moe, *Op. Cit.*, p. 453.

31. The Public Choice school is chiefly concerned with the application of economic reasoning to collective, political and social decision making. For background information of their thinkings, see Vincent and Elinor Ostrom, "Public Choice: A Different Approach to the Study of Public Administration", *Public Administration Review*, Vol. 31, No. 2, Mar./April, 1971, p. 203; Nicholas Henry, *Op. Cit.*, p. 303.

32. See Barry Bozeman, *All Organisations Are Public: Bridging Public and Private Organisational Theories*, San Francisco & London: Jossey-Bass, 1987.

33. See, for example, Terry L. Cooper, "The Public-Private Continuum: Interdependence in a Democratic Society", *Public Budgeting & Finance*, Autumn, 1985, pp. 99-123.

34. Vincent and Elinor Ostrom, *Op. Cit.*, pp. 206-207.

35. *Ibid.* Also see E.S. Savas, *Privatising the Public Sector: How to Shrink Government*, Chatham, N.J.: Chatham, 1982, pp. 30-33; Nicholas Henry, *Op. Cit.*, p. 305.

36. E.S. Savas, *Ibid.* Also see Nicholas Henry, *Ibid.*, p. 307; Jan-Erik Lane (ed.), *State and Market: The Politics of The Public and The Private*, London: Sage, 1985, p. 17.

37. *Ibid.*

38. See Jan-Erik Lane (ed.), *Ibid.*, p. 12; O.E. Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications*, New York: The Free Press, 1975.

39. Aaron Wildavsky, *Speaking Truth to Power: The Art and Craft of Policy Analysis*, Boston: Litle Brown, 1979, p. 173.

40. Anthony Downs, *Inside Bureaucracy*, Boston: Little Brown, 1967, p. 30.

41. See Julian Le Grand, and Ray Robinson (eds.), *Privatisation and the Welfare State*, London: George Allen & Unwin, 1984, p. 12.

42. See Mancur Olson, *The Logic of Collective Action: Public Goods and The Theory of Groups*, Cambridge, Mass.: Havard University Press, 1965.

43. J.T. Bennett and M.J. Johnson, "Tax Reduction Without Sacrifice: Private Sector Production of Public Services", *Public Finance Quarterly*, Vol. 8, 1980, p. 371.

44. Alan Walker, "The Political Economy of Privatisation", in Julian Le Grand and Ray Robinson (eds.), *Op. Cit.*, p. 32.

45. See L.A. Wilson II, "Rescuing Politics from the Economists: Privatising the Public Sector", in Richard C. Hula (ed.), *Market-Based Public Policy*, London: Macmillan, 1988, pp. 61-62.

46. Alan Walker, *Op. Cit.*, pp. 32-34.

47. See Nicholas Henry, *Op. Cit.*, pp. 304-305.

48. See Kate Ascher, *The Politics of Privatisation: Contracting Out Public Services*, London: Macmillan, 1987, p. 4.

49. Peter J. Curwen, *Op. Cit.*, p. 163.

50. Alan Walker, *Op. Cit.*, p. 25.

51. See E.S. Savas, *Op. Cit.*, pp. 56-57.

52. See Ted Kolderie, "The Two Different Concepts of Privatisation", *Public Administration Review*, July/Aug., 1986, p. 285.

53. Ira Sharkansky, *Wither the State: Politics and Public Enterprises in The Three Countries*, Chatham, N.J.: Chatham, 1979, p. XI.

54. *Ibid.*

55. Harold F. Gortner, Julianne Mahler, and Jeanne Bell Nicholson, *Organisation Theory: A Public Perspective*, Chicago: Dorsey, 1987, p. 64.

56. *Ibid.*, p. 62.

57. *Ibid.*, pp. 205-206.

Notes to Chapter II

1. *Strengthening the Machinery of Government*, (The Mckinsey Report), June, 1973, para. 87.

2. *Ibid.*

3. See *Synopsis of Speech on Government's View on Privatisation*, by Colin Sankey, Finance Branch, Government Secretariat, pp. 3-4.

4. For a good summary discussion of public corporations, see R.S. Arora, *Administration of Government Industries: Three Essays on the Public Corporation*, New Delhi: Lessees of Arjun Press, 1969.

5. According to W. Thornhill, the existence of public corporations can be dated back to as early as 1514, when the provision of light houses through the medium of a separately created corporation was established by Henry VIII in England. See Thornhill, *The Nationalised Industries: An Introduction*, London: Thomas Nelson & Sons, 1968, p. 1-2.

6. See R.S. Arora, *Op. Cit.*

7. For example, see Harold Seidman, "The Theory of The Autonomous Government Corporation: A Critical Appraisal", *Public Administration Review*, 1952; Marshall E. Dimock, "Principles Underlying Government-owned Corporations", *Public Administration*, 1935, and "Government Corporation: A Focus of Policy & Administration, I and II", *Amercian Political Science Review*, 1949, pp. 899-921 & 1145-1164; Herbert Morrison, *Socialisation and Transport*, London, 1933; J.M. Keynes, *The End of Laissez-Faire*, London, 1926; A.C. Pigou, *The Economics of Welfare*, London, 1920.

8. W. Thornhill, *Op. Cit.*, p. 5-6.

9. See R.S. Arora, *Op. Cit.*, pp. 36-38.

10. See Peter J. Curwen, *Public Enterprise: A Modern Approach*, Brighton, Sussez: Harvester, 1986, p. 3; W. Thornhill, *Op. Cit.*, p. 1.

11. See Nicholas Henry, *Public Administration and Public Affairs*, Englewood Cliffs, N.J.: Prentice-Hall, 1988, revised edition, p. 337.

12. Peter J. Curwen, *Op. Cit.*, p. 1.

13. The dates of incorporation are obtained from the

respective ordinance of the public corporations. We have excluded the proposed Radio & Television Corporation from the list, for the future "privatisation" of the Government-run Radio Television Hong Kong is to facilitate the independence of media and the freedom of expression, not concerning with the normal objectives of privatisation like efficiency, etc.

14. See Section 3(3), MTRC Ordinance, Cap. 270.

15. See *Annual Report*, MTRC, 1987, p. 5.

16. *Ibid.*, p. 39.

17. *Ibid.*, p. 4.

18. See Section 16 (3) & (4), MTRC Ordinance.

19. See note 15 above, p. 36.

20. *Ibid.*, p. 37.

21. *Ibid.*, p. 12.

22. See note 3 above, p. 4.

23. See note 15 above, pp. 24-25.

24. *Ibid.*, p. 9.

25. *Ibid.*, p. 42.

26. See *Wen Wei Po*, 16 May, 1988.

27. For the brief history of the KCRC, see *The Facts: Kowloon-Canton Railway*, Government Information Service, 1983.

28. See *Ming Pao*, 5 May, 1989 and 25 April, 1989.

29. *Ming Pao*, 5 April, 1989.

30. See Note 28 above.

31. *Ming Pao*, 5 April, 1989 and 21 March, 1989.

32. *Ming Pao*, 5 April, 1989.

33. See *Hong Kong Hansard*, 30 April, 1986, p. 1090.

34. The latest call for this appeared in *Hong Kong Economic Journal*, 31 July, 1989.

35. Nicholas Henry, *Op. Cit.*, p. 344.

36. L.J. Tivey, *Nationalisation in British Industry*,

London: Cape, 1966, p. 111.

37. See *Ming Pao*, 19 January, 1989; 1 February, 1989; 25 April, 1989; 5 May, 1989.

38. *Ibid*.

39. Nicholas Henry, *Op Cit.*, p. 343.

40. The Legislative Council can only exercise real control in two aspects regarding the supervision of the public corporations: the enactment or amendment of laws in respect of the public corporation; and the appropriation of public funds. For further details of the functions and powers of the Legislative Council, see N.J. Miners, *The Government and Politics of Hong Kong*, Hong Kong: O.U.P., 1978, Chapter 8-11.

41. This issue has been heavily covered by the press. See *Wen Wei PO*, 8 April, 1988 and 16-18 May, 1988; *Ta Kung Pao*, 9 April, 1988; *H.K. Economic Times*, 9 April, 1988; *SCMP*, 25 April, 1988.

42. See *Pai Shing Semi-Monthly*, No. 191, 1 May, 1989, pp. 26-27.

43. *Pai Shing Semi-Monthly*, No. 190, 16 April, 1989, pp. 38-39.

44. Note 37 above.

45. *Ibid*.

46. Cited in Nicholas Henry, *Op. Cit.*, p. 345.

47. Wong Hong-hin, "The Family Life and Standard of Living of the Hong Kong People: An Analysis of Social Change from Demographic Figures", *Ming Pao Monthly*, July 1988, (in Chinese), p. 64.

48. See *Annual Report*, Hong Kong Housing Authority, 1988.

49. See Peter K.W. Fong, "Housing Policy and the Public Housing Programme in Hong Kong", Working Paper 19, Centre of Urban Studies and Urban Planning, University of Hong Kong, March, 1986.

50. See *A Review of the Re-organisation and New Financial Arrangement of the Hong Kong Housing Authority*, Research and Resource Service, Hong Kong Council of Public Housing Policies, July, 1988, (in Chinese); also see reports by the press, for example, *Oriental Daily*, 18 July, 1987, *Ming Pao*, 24 July, 1987, *Shing Pao*, 24 July, 1987.

51. See *Oriental Daily*, 27 November, 1987; *Sing Tao Daily*, 27 November, 1987; *Shing Pao*, 27 November, 1987; *Wen Wei Po*, 27 November, 1987; *Tin Tin Daily*, 8 November, 1987.

52. *Ibid.*; also see *A Review of the Re-organisation and New Financial Arrangement of the Hong Kong Housing Authority*, see note 50 above.

53. For a detailed discussion of the social repercussions of the privatisation of public services like medical and housing services, see *She Lien Zhi K'an*, Hong Kong Council of Social Service, No. 104, Spring 1988, (in Chinese).

54. For example, see *Oriental Daily*, 14 December, 1987 and *Wen Wei Po*, 12 January, 1988, which have charged that the Government has aimed at gaining profits through the new financial arrangement.

55. *Ibid.*

56. *Long Term Housing Strategy -- A Policy Statement, April, 1987*, Hong Kong:Government Printer, p. 1.

57. *Ibid.*, p. 4.

58. *Ibid.*

59. *Ibid.*, pp. 5-6.

60. *Hong Kong Hansard*, 8 July, 1987, p. 2023.

61. Comment given by Tse Chi-wai, see *Ibid.*, p. 2024.

62. For details, see *Position Paper on The Long Term Housing Strategy*, Hong Kong Association for Democracy and People's Livelihood, April, 1987, (in Chinese).

63. For details of the new rental policy, see *Green Paper: Housing Subsidy to Tenants of Public Housing*, Hong Kong Housing Authority, August, 1985.

64. See note 53 above.

65. *Report on the Delivery of Medical Services in Hospitals: Executive Overview*, (The Scott Report), March, 1985, p. 1.

66. *Ibid.*, p. 2.

67. *Ibid.*

68. *Ibid.*, p. 9.

69. *Ibid.*, p. 10-11.

70. See note 53 above; also see *The First Step for Privatising Hong Kong's Medical & Health Services -- Comments on the 'Report on the Delivery of Medical Services in Hospitals'*, Hong Kong Policy Viewers, May, 1986.

71. *Ibid.*

72. See *Pai Shing Semi-Monthly*, No. 190, 16 April, 1989, pp. 30-31.

73. *Ibid.*

74. Corporatism abdvocates interest intermediation into public affairs. While various meanings have been attached to it as a concept, Alan Cawson has distinguished three varieties of corporatism, macro-, meso-, and micro-level corporatism. Meso-corporatism refers to the participation of individual or sectoral interest groups or associations (as opposed to peak or trans-sectoral organisations in macro-corporatism) in public policy-making. Accordingly, if representatives of the interest groups concerned were elected to the board of the public corporations in Hong Kong, it would approximate a meso-corporatist arrangement. See Alan Cawson (ed.), *Organised Interests and the State: Studies in Meso-Corporatism*, London: Sage, 1985, pp. 1-21.

75. See Ambrose Yeo-Chi King, "The Administrative Absorption of Politics in Hong Kong", *Asian Survey*, Vol. 15, No. 5, May, 1975.

76. See note 28 to Chapter I above.

77. *Ibid.*

Notes to Chapter III

1. F. John Jones, "Government Funding of Voluntary Social Services", Social Research Centre, Chinese University of Hong Kong, January, 1978, p. 6-7.

2. George Hoshino, "Social Science: The Problem of Accountability", *Social Service Review*, Vol. 47, September, 1973, pp. 373-383.

3. For further details of the voucher arrangement, see Elim Papadakis, and Peter Taylor-Gooby, *The Private Provision of Public Welfare: State, Market, and Community*, Sussex: Wheatsheaf, 1987, pp. 94-98; Marc Bendick, Jr., "Privatisation of Public Services: Recent Experience", in Harvey Brooks, Lance Liebman, and Corinne S. Schelling (eds.), *Public-Private Partnership: New Opportunities for Meeting Social Needs*, Cambridge, Mass.: Ballinger, 1984, pp. 159-163; E.S. Savas, *Privatising the Public Sector: How to Shrink Government*, Chatham, N.J.: Chatham, 1982, pp. 67-69; Gabriel Roth, *The Private Provision of Public Services in Developing Countries*, New York: O.U.P., 1987.

4. *Ibid.*

5. Marc Bendick, Jr., *Op. Cit.*

6. For a brief introduction to the history of social welfare in Hong Kong, see Nelson Chow, "The Past and Future Development of Social Welfare in Hong Kong", in Joseph Y.S. Cheng, *Hong Kong in Transition*, Hong Kong: O.U.P., 1986, pp. 403-419; *She Lien Zhi K'an*, Hong Kong Council of Social Service, No. 71, Winter, 1979, (in Chinese).

7. *Ibid.*

8. See *Aims and Policy for Social Welfare in Hong Kong*, A White Paper, 1965, Hong Kong: Government Printer.

9. *Ibid.*

10. F. John Jones, *Op. Cit.*, p. 11.

11. Note 8 above.

12. *Ibid.*, p. 14.

13. See note 6 above.

14. *Social Welfare in Hong Kong: The Way Ahead*, A White Paper, 1973, Hong Kong: Government Printer, p. 3.

15. *Ibid.*

16. *Ibid.*

17. *Ibid.*, pp. 4-5.

18. *Social Welfare into the 1980s*, A White Paper, April, 1979, Hong Kong: Government Printer, p. 22.

19. *Ibid.*

20. For a brief introduction to the works and organisation of the Social Welfare Department, see *Social Welfare in Hong Kong*, Government Information Services, Hong Kong: Government Printer.

21. For full details of the VAs, see *She Lien Zhi K'an*, No. 100, Spring, 1987, (in Chinese); *Welfare Digest*, Issue No. 77, October, 1980; *Pioneers of Social Development: Voluntary Agencies in Hong Kong*, Hong Kong Council of Social Service.

22. *Ibid.*

23. *Ibid.*

24. See *Welfare Digest*, Issue No. 155, April, 1987, p. 1.

25. *Ibid.*

26. See *Departmental Report*, Director of Social Welfare, 1987, pp. 25-26.

27. See note 22 above.

28. For details of the subvention system for social welfare, see note 21 above; also see *New Welfare Subvention Policy*, Social Welfare Department, 10 November, 1981; *Welfare Digest*, Issue No. 155, April, 1987; *Hong Kong Hansard*, 3 June, 1987, pp. 1708-1724.

29. *Ibid.*

30. *Ibid.*

31. *Ibid.*

32. *Ibid.*

33. See *Welfare Digest*, Issue No. 155, April, 1987.

34. For a discussion of the fringe benefits of VA staff, see *Welfare Digest*, Issue No. 94, March, 1982.

35. Calculated from statistics provided in Hong Kong Yearbooks.

36. See F. John Jones, *Op. Cit.*

37. *Welfare Digest*, Issue No. 71, April, 1980, p. 1.

38. *Ibid.*, p. 2.

39. See *Departmental Report*, Director of Social Welfare, 1988, p. 26.

40. For a brief introduction to the work of the HKCSS, see *Pioneer of Social Development: Voluntary Agencies in Hong Kong*, Hong Kong Council of Social Service.

41. See *She Lien Zhi K'an*, No. 100, Spring, 1987, (in Chinese), pp. 34-35.

42. We shall exclude the tertiary education in our discussion, for although it is also largely operated by private parties funded by Government through the UPGC (University & Polytechnic Grants Committee), the perceived "privatisation" of which is based on academic independence rather than efficiency and others.

43. *Hong Kong Standard*, 17 June, 1988.

44. See *The Hong Kong Education System*, A Green Paper, June, 1981, Hong Kong: Government Printer, Chapter 5.

45. For the early history of education in Hong Kong, see Yuen Yau, *A Historical Study of the Education System of Hong Kong*, Hong Kong: Progressive Education Publishers, 1948, (in Chinese).

46. See *Education Commission Report No. 3*, July, 1988, Hong Kong: Government Printer, pp. 45-46.

47. F. John Jones, *Op. Cit.*, p. 53.

48. Note 44 above, para. 5.24.

49. *Ibid.*

50. *Ibid.*, para. 5.27.

51. Note 46 above, p. 48.

52. *Ibid.*

53. Cited in Ng Ming-yim, *Hong Kong's Education in the Transitional Period*, Hong Kong: Wide Angle Press, 1988, (in Chinese), p. 39.

54. For a full appraisal of the BPS by educationists, see *Ming Pao*, 29 May, 1985; 14 July, 1985; 19-20 July, 1985; and 9 April, 1987. Also see *Education Commission Report No. 3*, July , 1988.

55. Note 46 above, pp. 56-59.

56. *Ibid.*, p. 57.

57. *Departmental Report*, Director of Medical and Health Services, 1988; Hong Kong Yearbook, 1988.

58. *She Lien Zhi K'an*, No. 80, Spring 1982, (in Chinese), p. 19.

59. *Ibid.*, p. 20.

60. *SCMP*, 14 February, 1987, p. 3.

61. See *She Lien Zhi K'an*, No. 80, Spring, 1982, (in Chinese), pp. 19-24; *SCMP*, 22 October, 1987, p. 19 and 8 June, 1987, p. 24.

62. *SCMP*, 8 June, 1987, p. 24.

63. *Tung Wah Group of Hospitals Ordinance, Cap. 1051*, Schedule.

64. See *Annual Report*, Tung Wah Group of Hospitals, 1983-84.

65. *SCMP*, 11 February, 1987, p. 1.

66. See *SCMP*, 11 February, 1987, p. 1, and 31 October, 1987, p. 2.

67. For the history of the Po Leung Kuk, see *Centenary History of the Po Leung Kuk, Hong Kong*, Compiled by the Po Leung Kuk Board of Directors for 1977/78;

68. See *Annual Report*, Po Leung Kuk, 1986-87.

69. See *Annual Report*, School Medical Service Board, March, 1982; *Departmental Report*, Director of Medical and Health Services, 1987-88, p. 9.

70. *Ibid.*

71. *Departmental Report*, Director of Medical and Health Services, 1987-88.

72. See *Wen Wei Po*, 28 June, 1989; *Wah Kiu Yat Po*, 19 April, 1988; *Pai Shing Semi-Monthly*, No. 190, 16 April, 1989, pp. 49-50; *Annual Report*, School Medical Service Board, March, 1982.

73. *Education Commission Report No. 3*, July, 1988, p. 55.

74. *Ibid.*, p. 70.

75. For a full appraisal of the DSS, see *H.K. Economic Times*, 28 April, 1988; *Ta Kung Pao*, 9 and 29, April, 1988, and 6 June, 1988; *Hong Kong Economic Journal*, 11 and 25, May 1988; *Hong Kong Standard*, 13 may,1988, and 17 June, 1988; *Wen Wei Po*, 8 May, 1988.

76. Note 73 above, p. 66.

77. See note 75 above.

78. See Kate Ascher, *The Politics of Privatisation: Contracting Out Public Services*, London: Macmillan, 1987, p. 7.

79. See E.S. Savas, *Privatising the Public Sector: How to Shrink Government*, Chatham, N.J.: Chatham, 1982, pp. 59-60; Nicholas Henry, *Public Administration and Public Affairs*, Englewood Cliffs, N.J.: Prentice-Hall, 1988, revised edition, Chapter 12.

80. Michael Sharpston, "International Sub-Contracting", *Oxford Economic Papers*, Vol. 27, No. 1, March, 1975, pp. 94-134.

81. Marc Bendick, Jr., "Privatisation of Public Services: Recent Experience", in Harvey Brooks, Lance Liebman, and Corinne S. Schelling (eds.), *Public-Private Partnership: New Opportunities for Meeting Social Needs*, Cambridge, Mass.: Ballinger, 1984, p. 154.

82. See Ira Sharkansky, *Wither the State: Politics and Public Enterprises in the Three Countries*, Chatham, N.J.: Chatham, 1979, pp. 113-114; Ruth Hoogland Dehoog, "Human Services Contracting", *Administration & Society*, Vol. 16, No. 4, February, 1985, pp. 428-430; Nicholas Henry, *Op. Cit.*, p. 319.

83. See Kate Ascher, *Op. Cit.*, pp. 11-19.

84. See James Ferris, and Elizabeth Graddy, "Contracting Out: For What? With Whom?", *Public Administration Review*, July/Aug., 1986, pp. 332-344.

85. See O.E. Williamson, *Markets and Hierarchies: Analysis and Antitrust Implications*, New York: The Free Press, 1975.

86. See *Synopsis of Speech on Government's View on*

Privatisation, by Colin Sankey, Finance Branch, Government Secretariat.

87. Nicholas Henry, *Op. Cit.*, p. 332.

88. These proposals can be found in the following newspapers: life-saving for public swimming pools and beaches (*Ming Pao*, 15 June, 1988); Kowloon Bay refuse transfer station (*Hong Kong Standard*, 25 April, 1988); chemical waste treatment plants (*Hong Kong Economic Journal*, 5 June, 1988); tunnel management (*Ming Pao*, 13 October, 1987); parking meters (*Hong Kong Standard*, 6 october, 1987).

89. See E.S. Savas, *Op Cit.*, p. 66.

90. See *Kung Shang Daily*, 17 December, 1983.

91. *Hong Kong Hansard*, 22 October, 1980, p. 85.

92. *Ibid.*

93. See Yip Kwok-ching, "The Privatisation of Car Parking Facilities in Hong Kong", Unpublished M. Soc. Sc. Dissertation, University of Hong Kong, July, 1983.

94. *Ibid.*, p. 73.

95. Note 90 above.

96. *Ibid.*

97. *Ibid.*

98. See *Departmental Report*, Commissioner for Transport, 1988.

99. See the annual reports of the Urban Council and Urban Services Department.

100. *SCMP*, 17 December, 1986.

101. *Ibid.*

102. *Ming Pao*, 28 March, 1989; *Annual Report*, Urban Council, 1985-87.

103. *Ibid.*

104. *Ibid.*

105. *Ibid.*

106. *Ibid.*

107. *Ming Pao*, 15 February, 1989.

108. *Ming Pao*, 15 February, 1989; *Wen Wei Po*, 12 July, 1987.

109. *Wen Wei Po*, 12 July, 1987; *Ming Pao*, 27 March, 1988, and 6 September, 1989.

110. *Ming Pao*, 27 March, 1988.

111. *Ibid*.

112. *Ming Pao*, 15 June, 1988.

113. *SCMP*, 17 December, 1986.

114. *Hong Kong Hansard*, 3 June, 1987, p. 1715.

115. See *Express Daily*, 10 February, 1988.

116. Computed by the author based on the statistics published on the Hong Kong Yearbooks.

117. See Jan-Erik Lane (ed.), *State and Market: The Politics of The Public and The Private*, London: Sage, 1985, p. 25.

118. Remark given by Lam Kui-Shing, see *Hong Kong Hansard*, 3 June, 1987, p. 1716.

Notes to Chapter IV

1. See E.S. Savas, *Privatising the Public Sector: How to Shrink Government*, Chatham, N.J.: Chatham, 1982, p. 41.

2. *Hong Kong Hansard*, 24 November, 1982, p. 287.

3. See Gabriel Roth, *The Private Provision of Public Services in Developing Countries*, New York: O.U.P., 1987, p. 3; E.S. Savas, *Op. Cit.*, p. 66.

4. Gabriel Roth, *Op. Cit.*, p. 85.

5. *Ibid.*

6. *Ibid.*, p. 225.

7. The dates of incorporation of the companies on the list were recorded in their respective Memorandum and Articles of Association which are available for reference at the Company Registry of the Hong Kong Government.

8. See *Hong Kong Hansard*, 26 September, 1986.

9. Cited in *Consultancy to Review the Government's Monitoring Arrangements of the Power Companies Prepared for Government of Hong Kong, September, 1984*, Ernst & Whinney, p. 1-4; also see *Wah Kiu Yat Po*, 15 November, 1982.

10. See *Revising the Schemes of Control*, Society of Social Research, August, 1983, (in Chinese), p. 7; *KMB, 50th Anniversary*.

11. See *Annual Returns* made up to the 9th of December of 1988, CMB and KMB.

12. See *Report of the Working Group of the Transport Advisory Committee on CMB Maintenance*, December, 1984, p. 56.

13. See note 10 above.

14. See *SCMP*, 5 June, 1984 and 19 June, 1984.

15. See Gabriel Roth, *Op. Cit.*

16. *Ibid.*, p. 166.

17. *Ming Pao*, 15 November, 1988.

18. For the terms of reference of the TAC, see *Departmental Report*, Commissioner for Transport, 1986, p. 13.

19. See Yip Kwok-ching, "The Privatisation of Car Parking Facilities in Hong Kong", Unpublished M. Soc. Sc. Dissertation, University of Hong Kong, July, 1983.

20. In the United States, public utilities are usually monitored by regulatory commissions or agencies which are statutory bodies,i.e., structures created by law, granted formal powers and having authority over the rates, services, and accounting practices, etc., of the utility companies. Members of these commissions are appointed by government (have to be approved by the legislature) or the legislature itself; or selected through elections. In Hong Kong the closest approximation to the above is the newly-formed Securities and Futures Commission established under the Securities and Futures Commission Ordinance. For details of regulatory commissions found in the utility sector in the U.S., see Paul J. Garfield, and Wallace F. Lovejoy, *Public Utility Economics*, Englewood Cliffs, N.J.: Prentice-Hall, 1964.

21. See *Ibid.*, p. 13.

22. See *Ming Pao*, 17 February, 1985.

23. See *Departmental Report*, Commissioner for Transport, 1986, pp. 56-58.

24. See *Hong Kong Standard*, 30-31 January, 1984, and 31 March, 1984

25. See note 12 above.

26. *SCMP*, 24 February, 1985, and 9 April, 1985.

27. *SCMP*, 24 February, 1985.

28. *SCMP*, 9 April, 1985.

29. *Departmental Report*, Commissioner for Transport, 1986, p. 67.

30. *Ibid.*, pp. 67-68.

31. *Ibid.*, p. 68.

32. *SCMP*, 2 May, 1986.

33. See *Hong Kong Standard*, 5 September, 1987, and 5 December, 1987.

34. See *The Cross-Harbour Tunnel Co., Ltd. (Offer for Sale of 31,625 Shares of HK$1 each at HK$5.25)*, p. 9.

35. See *Annual Report*, The Cross-Harbour Tunnel Co., Ltd., 1988.

36. *SCMP*, 9 September, 1989, p. 4.

37. *Ibid.*, p. 6.

38. *Ibid.*, p. 7.

39. *Wah Kiu Yat Po*, 29 July, 1985, and 7 September, 1986.

40. *Ibid.*

41. *SCMP*, 9 September, 1989, p. 7.

42. *Hong Kong Standard*, 28 February, 1988.

43. *Ibid.*

44. *Ibid.*

45. *Ta Kung Pao*, 8 February, 1988, and 4 June, 1988.

46. See note 34 above; also see *Ming Pao*, 16 September, 1984.

47. *Ta Kung Pao*, 4 June, 1988.

48. *Wah Kiu Yat Po*, 29 July, 1985, 17 February, 1986, and 7 September, 1986.

49. *Ming Pao*, 6 September, 1984.

50. *SCMP*, 26 April, 1984.

51. *Annual Report*, Cross-Harbour Tunnel Co., Ltd., 1988.

52. *Wen Wei Po*, 24 May, 1988.

53. *Hong Kong Economic Journal*, 12 April, 1988.

54. *Ibid.*

55. See *Annual Return* made up to the 16th of June of 1988, Cable & Wireless and Hong Kong Telephone.

56. See *The Scheme of Control Agreement* for Hong Kong Telephone.

57. *Ibid.*

58. Figures provided in the *Hong Kong Yearbook*, 1988.

59. *Ibid.*

60. See *Tramlines: The Study of the Hong Kong Tramway System*, by Martin Barnett, Hong Kong: SCMP Ltd., 1984, p. 101.

61. See *Departmental report*, Commissioner for Transport, 1986, p. 66.

62. *Ibid*.

63. See *Hong Kong: The facts, Heat, Light and Power*, Government Information Services, Hong Kong: Government Printer.

64. *Ibid*.

65. *Ibid*.

66. *Ibid*.

67. *Ibid*.

68. *Ibid*.

69. See "City of Lights", *Modern Asia*, Vol. 4, No. 6, Nov./Dec., 1970, p. 16.

70. *Ibid*.

71. See note 63 above.

72. *Ibid*.

73. See note 69 above, p. 18.

74. *Consultancy to Review the Government's Monitoring Arrangements of the Power Companies Prepared for Government of Hong Kong, September, 1984*, Ernst & Whinney, p. 1-3.

75. See *Revising the Schemes of Control*, Society of Social Research, August, 1983, (in Chinese), p. 4.

76. See note 74 above.

77. See *Annual Report*, China Light, 1987, p. 31; *Annual Report*, Hongkong Electric, 1986.

78. See *Kung Shang Daily*, 17 October, 1982, 3 November, 1982, 19 November, 1982, 27 November, 1982, and 4 December, 1982; *Ming Pao*, 8 November, 1982; *Express Daily*, 10 November, 1982, and 24 November, 1982; *Wah Kiu Yat Po*, 10 November, 1982.

79. *Ibid*.

80. *Ibid*.

81. *Hong Kong Hansard*, 24 November, 1982, pp. 272-273.

82. *Ibid.*, p. 273.

83. *Ibid.*, p. 274.

84. *Ibid.*, pp. 267-268.

85. *Ibid.*, p. 268.

86. *Ibid.*

87. *Ibid.*, p. 287.

88. *Ibid.*, pp. 288-289.

89. *Ibid.*, p. 290.

90. See *Annual Report*, China Light, 1987, p. 10.

91. See note 74 above, p. 2-4.

92. *Ibid.*

93. See note 90 above.

94. *Hong Kong Hansard*, 24 November, 1982, p. 263.

95. A.H. Hanson, *The Organisation and Administration of Municipal Enterprises with Emphasis on Public Transport, Electricity and Water*, Hague: Martinus Nijhoff, 1966, p. 47.

96. See Michael P. Todaro, *Economic Development in the Third World*, New York & London: Longman, 1981, 2nd edition, pp. 484-487.

97. See A.H. Hanson, *Op. Cit.*, p. 46.

98. *Ibid.*

99. *Hong Kong Hansard*, 24 November, 1982, p. 288.

100. *Ibid.*

Notes to Chapter V

1. For a discussion of asset sales undertaken in Britain, see Peter J. Curwen, *Public Enterprises: A Modern Approach*, Brighton, Sussez: Harvester, 1986, pp. 157-163; Kate Ascher, *The Politics of Privatisation: Contracting Out Public Services*, London: Macmillan, 1987, pp. 5-6.

2. See Valerie Ann Penlington, *Law in Hong Kong: An Introduction*, Hong Kong: Federal Publications, 1982, 2nd edition, pp. 222-227.

3. See Peter N.S. Lee, "A Review of the Political System of Hong Kong", *Tide Monthly*, No. 4, 15 June, 1987, pp. 16-19, (in Chinese).

4. *Ibid.*

5. See the author's "Economic Growth and Political Participation: The Case of Hong Kong", Unpublished Paper, December, 1988.

6. *Ibid.*; also see Cheung Bing-leung, and Lui Tai-lok, *et al.*, *Class Analysis and Hong Kong*, Hong Kong: Ching Man Books, 1988, (in Chinese).

7. For example, see *Ming Pao*, 21 July, 1985; *Pai Shing Semi-Monthly*, No. 110, December, 1985.

8. *Hong Kong Standard*, 10 May, 1988; *Hong Kong Economic Journal*, 8 May, 1988.

9. Alexander Gerschenkron has noted that it is almost a universal rule that late industrialisers require greater state participation in economic development. See Gerschenkron, *Economic Backwardness in Historical Perspective*, New York: Praeger, 1962, pp. 5-33; also see Lau Siu-kai, and Kuan Hsin-chi, *The Ethos of the Hong Kong Chinese*, Hong Kong: Chinese University Press, 1988, p. 24; Michael P. Todaro, *Economic Development in the Third World*, New York & London: Longman, 1981, 2nd edition,pp. 484-487.

10. See Patrick Dunleavy, "Explaining the Privatisation Boom: Public Choice Versus Radical Approaches", *Public Administration*, Vol. 64, Spring, 1986.

11. One famous example is the 'Lakewood Plan' of municipal service contracting which allows Californian cities to purchase basic local government services from county government departments rather than produce the services in-house. Thus in 1981 the city of Lakewood in Los Angeles had bought 41 different services from the

county; 76 other cities also bought one or more services from the county. See E.S. Savas, *Privatising the Public Sector: How to Shrink Government*, Chatham, N.J.: Chatham, 1982, p. 60; Stephen L. Mehay, and Rodolfo A. Gonzalez, "Economic Incentives Under Contract Supply of Local Government Services", *Public Choice*, Vol. 46, 1985, pp. 77.

12. See Steven N.S. Cheung, *The Stories from an Orange-Seller*, Hong Kong: Hong Kong Economic Journal Publishing Co., 1984, (in Chinese), pp. 70-77.

13. *The basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*, (Draft), February, 1989, Article 106-107.

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